

Sines, et al. v. Kessler, et al., 3:17CV72, 10/28/2021

1 UNITED STATES DISTRICT COURT
2 FOR THE WESTERN DISTRICT OF VIRGINIA
3 CHARLOTTESVILLE DIVISION

4 ELIZABETH SINES, ET AL., CIVIL CASE NO.: 3:17CV72
5 OCTOBER 28, 2021, 9:08 AM
JURY TRIAL, DAY 4

6 Plaintiffs,

7 vs.

Before:

8 HONORABLE NORMAN K. MOON
UNITED STATES DISTRICT JUDGE
9 JASON KESSLER, ET AL., WESTERN DISTRICT OF VIRGINIA

10 Defendants.

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1 (Proceedings commenced, 9:08 a.m.)

2 THE COURT: Good morning. Would the clerk call the
3 case, please.

4 THE CLERK: This is Civil Action Number
5 3:17-cv-00072, Elizabeth Sines and others versus Jason Kessler
6 and others.

7 THE COURT: Plaintiffs ready?

8 MS. DUNN: Yes, we are, Your Honor.

9 THE COURT: Defendants ready?

10 MR. CAMPBELL: Yes, Your Honor.

11 MR. KOLENICH: Yes, Your Honor.

12 MR. JONES: Yes, Your Honor.

13 MR. SMITH: Yes, Your Honor.

14 MR. CANTWELL: Yes, Your Honor.

15 MR. SPENCER: Yes, Your Honor.

16 THE COURT: All right. Before we begin, I will
17 remind everyone that under Standing Order 2020-12 and 2013-8
18 the Court's prohibition against recording and broadcasting
19 court proceedings remains in force. Attorneys, parties, and
20 their staff and members of the public or press accessing this
21 proceeding today may not record or broadcast it. That means no
22 photography, no using any video or audio recording device, no
23 rebroadcasting, live streaming or otherwise disseminating any
24 live or recorded video or audio in this proceeding.

25 Do we know where Mr. ReBrook is?

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1 MR. SMITH: Your Honor, I saw him right outside when
2 I was coming in. We were in line together. He walked away for
3 a second and I haven't seen him since. He might be on his way
4 up.

5 THE COURT: All right. We forwarded a set of
6 preliminary jury instructions. I did make one substitution
7 this morning. I don't think there's any question about the law
8 as stated. After I sent the initial packet I thought the
9 instruction I substituted would be more helpful to the jury.

10 Are there any other matters that require the Court
11 taking up this morning?

12 MR. CANTWELL: Judge, I have motions in to exclude
13 the plaintiffs' Discord exhibits as undisclosed. And there's
14 been some dispute about the stipulations on these things. I
15 understand that they're going to plan on introducing -- they
16 plan to introduce those exhibits during their opening
17 statement, and I thought it would be worth bringing this up
18 before they got started so I don't interrupt them.

19 THE COURT: Did you all meet yesterday and confer
20 regarding what might be used in the opening statement?

21 MR. CANTWELL: I have received this binder moments
22 ago with what the plaintiffs intend to introduce in their
23 opening statements. And try though I might, I don't think I'm
24 going to be able to get through it before we get started.

25 THE COURT: All right. Well, is there anything --

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1 did you all not confer, are you telling me?

2 MS. DUNN: Judge, we --

3 MR. CAMPBELL: David Campbell for Defendant Fields.

4 We did confer and work out any issues that counsel had with --
5 plaintiffs' counsel -- defense counsel had with plaintiffs' --

6 THE COURT: All right.

7 MR. CANTWELL: I spoke to Mr. --

8 THE COURT: The opening statement is not evidence.

9 I'm going to tell the jury that. And unless it's some
10 egregious sort of -- something that would be so prejudicial,
11 this Court doesn't normally interfere with the opening
12 statement. I'll just tell the jury the opening statement is
13 not evidence.

14 MR. CANTWELL: Excellent. Okay. Thank you.

15 THE COURT: Anything else?

16 MS. KAPLAN: One other housekeeping matter, Your
17 Honor. This morning I was able to speak to Mr. Campbell and
18 Mr. Kolenich. Sorry, can you not hear me?

19 THE COURT: I'm sorry. I just was not hearing you.

20 MR. SMITH: I don't think the mic is picking it up.

21 MS. KAPLAN: Can you hear me now?

22 This morning, Your Honor, I was able to speak to
23 Mr. Campbell and Mr. Kolenich about ways to expedite trial so
24 that if there's some time at the end of the day and it doesn't
25 make sense to get a witness into the courthouse with all the

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1 logistics, we could not waste time.

2 One of the things we thought to do was, for example,
3 Defendant Azzmador, who Your Honor has issued a number of
4 orders against, we would like today, depending upon how things
5 go, or tomorrow, to read in -- to admit certain exhibits, to
6 read in portions of them that have already been admitted just
7 to kind of expedite things and fill time that way. And I think
8 that defendants agree with that.

9 And to be clear, Your Honor, we would never read the
10 whole exhibits. We would obviously move to have them --
11 they're already admitted, but read portions of them. Again,
12 it's a good way to kind of make things go smoothly.

13 THE COURT: All right. Is there any problem with
14 that? Seems okay.

15 MR. KOLENICH: Not from counsel, Your Honor.

16 MR. CAMPBELL: No, Your Honor.

17 MR. SMITH: No, Your Honor.

18 THE COURT: Okay. All right. Mr. ReBrook, did you
19 have any issues -- anything you need to bring up?

20 MR. REBROOK: No, Your Honor.

21 THE COURT: I'm glad to see you back.

22 MR. REBROOK: Thank you, Your Honor.

23 MR. SMITH: I received a message from Mr. Spencer.
24 He is going through security and is going to be up momentarily.

25 THE COURT: Okay.

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1 MR. KOLENICH: Your Honor, if I could bring just one
2 matter up. I was -- I did not receive the email with the new
3 jury instruction this morning. So I'm just seeing it now. I
4 just want a couple of minutes to review it.

5 THE COURT: Okay. You can look at it. It was in
6 the -- I think it was -- it's an instruction I give in every
7 conspiracy case. I usually give it in the final package, but I
8 think it's appropriate to give it here.

9 MR. KOLENICH: Yes, sir. Can I go ahead and read it
10 for a few minutes.

11 THE COURT: Go ahead.

12 MS. KAPLAN: I'm so sorry. One more thing, Your
13 Honor. As Your Honor graciously agreed, we have the plaintiffs
14 downstairs who are ready for openings when Your Honor is ready.
15 We just have to figure out when you want them up and I
16 understand they will be sitting behind us in the jury box.

17 THE COURT: Right. Okay. Call juror number 207.

18 I was told juror 207 reported yesterday that he may
19 have seen something reported that the trial was going to start
20 yesterday, and if he saw it on the news, I want to be sure he
21 didn't see anything else, other than that.

22 COURT SECURITY OFFICER: Do you want him in here now?

23 THE COURT: Yes.

24 (Pause.)

25 THE COURT: All right, sir. Before you sit down,

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1 would you stand and be sworn, please.

2 (Juror sworn.)

3 THE COURT: Have a seat, please, and take off your
4 mask. Sir, I understand that you came in yesterday having
5 heard that the trial might -- was going to start yesterday
6 morning. Can you tell me where you heard that?

7 MALE JUROR: Where I heard the trial would start
8 yesterday morning?

9 THE COURT: Uh-huh.

10 MALE JUROR: No, they told us to come in.

11 THE COURT: Who told you?

12 MALE JUROR: It was on the phone to come in -- they
13 called me on the phone and told me to come to the courthouse.

14 THE COURT: All right. Have you -- have you read or
15 heard anything on the television about the case?

16 MALE JUROR: No, I haven't.

17 THE COURT: Television or anything else since then?

18 MALE JUROR: No, sir, I haven't.

19 THE COURT: All right. Okay. But it was your
20 understanding from the message you got on the telephone?

21 MALE JUROR: Yes.

22 THE COURT: All right. Thank you. You may go back
23 to the jury room.

24 (Juror out.)

25 THE COURT: All right. Are we ready to call the

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1 jury?

2 MR. KOLENICH: Yes, Your Honor.

3 THE CLERK: Do you want the plaintiffs to be brought
4 up, Your Honor?

5 THE COURT: Yeah, the plaintiffs can come on up.

6 MS. KAPLAN: Okay. Thank you, Your Honor.

7 THE COURT: Let the plaintiffs come in.

8 Have defendants agreed upon the order in which you're
9 going to appear?

10 MR. JONES: Yes, Your Honor.

11 MR. KOLENICH: Yes.

12 MR. CAMPBELL: Yes.

13 MR. SMITH: Yes, Your Honor.

14 **(Jury in, 9:20 a.m.)**

15 THE COURT: All right. You may be seated. Are the
16 plaintiffs on the way?

17 THE CLERK: Are the plaintiffs on the way?

18 MS. KAPLAN: Yes, they are.

19 THE COURT: Please come forward. Please come on in
20 and take a seat.

21 All right. Would you call the jury, please?

22 THE CLERK: Yes, Your Honor. Juror 164, juror 168,
23 177, 207, 210, 212, 213, 233, 243, 265, 275, 288.

24 THE COURT: You may swear the jury.

25 THE CLERK: Ladies and gentlemen, would you please

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1 rise. Would you please raise your right hands and be sworn.
2 Do you and each of you solemnly swear that you will well and
3 truly try the issue joined between Elizabeth Sines and others
4 and Jason Kessler and others and a true verdict render
5 according to the law and the evidence? You do?

6 You may be seated.

7 THE COURT: Members of the jury, as I told you
8 yesterday, except when one is speaking, we will all wear a mask
9 over our nose and our mouth. And I will do so when I quit
10 speaking.

11 This is a civil suit. The plaintiffs are Elizabeth
12 Sines, Seth Wispelwey, Marissa Blair, April Muñiz, Marcus
13 Martin, Natalie Romero, Chelsea Alvarado, Devin Willis, and
14 Thomas Baker. At times in these instructions and during trial
15 these individuals will be referred to collectively as "the
16 plaintiffs."

17 The defendants are Jason Kessler, Richard Spencer,
18 Christopher Cantwell, James Alex Fields Jr., Vanguard America,
19 Robert "Azzmador" Ray, Nathan Damigo, Elliot Kline, also known
20 as Eli Mosley, Identity Evropa, Matthew Heimbach, Matthew
21 Parrott, also known as David Matthew Parrott, and
22 Traditionalist Worker Party, Michael Hill, Michael Tubbs,
23 League of the South, Jeff Schoep, and National Socialist
24 Movement. They may be referred to individually as a defendant
25 or collectively as "the defendants."

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1 During the proceedings you may notice that not all
2 the plaintiffs will be physically present in the courtroom for
3 every day of the trial. You must not consider this fact at all
4 during your deliberations or while evaluating the credibility
5 of any witness. As a necessary means to reduce the risk of the
6 spread of COVID-19, I restricted the total number of persons
7 from the plaintiffs' side who may be present in the courtroom
8 at any given time; that is, except this morning during the
9 opening statements, I'm allowing the plaintiffs to sit in the
10 jury box. As a necessary means -- as a necessary means to
11 spread reduce the spread of COVID-19, I made these
12 restrictions. You must not hold that fact against them.

13 The Court has also permitted any party, including
14 defendants, to participate remotely in the trial under some
15 circumstances, also to reduce the spread of COVID-19. And you
16 must not hold that against any party if they are not physically
17 present in the courtroom for every day of the trial.

18 It will be your duty to find from the evidence what
19 the facts are. You and you alone will be the judges of the
20 facts. You will then have to apply to those facts the law as I
21 give it to you. You must follow that law whether you agree
22 with it or not. Nothing I may say or do during the course of
23 the trial is intended to indicate or should be taken by you as
24 indicating what your verdict should be.

25 Now, I wish to say a few words about the burden of

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1 proof which exists in this case.

2 In this civil case, plaintiffs each have the burden
3 of proving their claims against each defendant by what is
4 called the preponderance of the evidence. This burden applies
5 to all plaintiffs' claims except their claim for intentional
6 infliction of emotional distress, which will be discussed
7 later. In the same vein, the defendant has the burden to
8 approve any affirmative defenses that they may advance by a
9 preponderance of the evidence. I will explain this more after
10 you have heard all the evidence. But, now, keep in mind that
11 if you conclude that a party who has the burden of proof on an
12 issue establishes his or her position by a preponderance of the
13 evidence, you must decide that issue for the party.

14 The term "preponderance of the evidence" means
15 evidence which, as a whole, shows that the fact sought to be
16 proven is more probable than not; in other words, a
17 preponderance of the evidence means such evidence that
18 persuades you that a fact is more likely true than not.

19 In your mind, you may think of this as 51 percent
20 more likely than not. In determining whether any fact and
21 issue has been proven by a preponderance of the evidence, you
22 may, unless otherwise instructed, consider the testimony of all
23 witnesses, regardless of who may have called them, and all
24 exhibits received in evidence, regardless of who may have
25 produced them.

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1 You may have heard of the term "proof beyond a
2 reasonable doubt." That is a stricter standard that is
3 applicable in criminal cases. It does not apply in civil cases
4 such as this. You should therefore put it out of your mind.

5 I wish to give you an overview of this case.

6 Now, as I said, this is a civil lawsuit brought by
7 multiple plaintiffs against multiple defendants, including
8 individuals and organizations, based on events that occurred in
9 Charlottesville, Virginia in August of 2017. The plaintiffs in
10 this case claim that the defendants and others conspired to
11 commit racially motivated violence at an event the defendants
12 called Unite the Right, which was held in Charlottesville on
13 August 11 and 12, 2017.

14 Plaintiffs allege that the defendants helped to plan,
15 promote, or carry out racially motivated violent acts during
16 that event, and in doing so caused plaintiffs physical,
17 emotional, and monetary harm. Such acts include a violent
18 torch march on August 11 and various acts of violence on
19 August 12, including a car attack that drove through a large
20 crowd of people which, plaintiffs assert, injured seven of the
21 nine plaintiffs in this case.

22 Some of the plaintiffs raise additional claims,
23 including that certain defendants subjected them to acts of
24 intimidation, harassment, violence, and vandalism based on
25 plaintiffs' race, religion, or ethnicity, and that defendant

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1 James Fields committed assault, battery, and intentional
2 infliction of emotional distress.

3 Defendants dispute these claims, deny that they
4 conspired with anyone to commit violence, and contend that they
5 should not be held liable for these alleged actions and they
6 are not responsible for any injury or damages suffered by
7 plaintiffs.

8 This summary of the plaintiffs' position is intended
9 only as background information to help you understand the
10 nature of the case. It is not evidence and may not be
11 considered as such.

12 The plaintiffs' and defendants' attorneys will have
13 an opportunity to make what is called an opening statement.
14 Opening statements are neither evidence or argument. An
15 opening statement is an outline of what a party intends to
16 prove, offered to help you follow the evidence. What the
17 attorneys say in their opening statements is not evidence.

18 After each party has had an opportunity to make an
19 opening statement, plaintiffs will present their witnesses, and
20 defendants may cross-examine those witnesses. Then defendants
21 have an opportunity to call their witnesses and present their
22 evidence. Plaintiffs may cross-examine any of defendants'
23 witnesses. After the parties' main case is completed,
24 plaintiffs may be permitted to present rebuttal evidence.

25 Once again, I instruct you that your duty is to

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1 consider the evidence and find what the facts are. The
2 evidence from which you will find the facts will consist of the
3 testimony of witnesses, documents and other things received
4 into the record as exhibits, and any facts that the parties
5 agree are not disputed or such matters as I may instruct you to
6 find.

7 During the trial, it may be necessary for me to
8 confer with the parties and their lawyers out of your hearing,
9 or to conduct a part of the trial out of your presence. I will
10 handle these matters as briefly and conveniently for you as I
11 can, but you should remember that they are a necessary part of
12 any trial.

13 My general procedure is to take a morning break, a
14 lunch break, and a midafternoon break; however, the trial
15 schedule is not written in stone. If you become uncomfortable
16 and need to take an immediate break, please let the court
17 security officer know, and we will make accommodations. We
18 want to make sure you are comfortable so you can concentrate on
19 what is being said and properly consider the evidence as it is
20 received.

21 The evidence from which you find the facts will
22 consist of the testimony of witnesses, documents and other
23 things received into the record as exhibits, and any facts that
24 the lawyers agree to or stipulate to or I may instruct you to
25 find, as I've already said.

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1 Certain things are not evidence and must not be
2 considered by you. I will list them for you now: One,
3 statements, arguments, and questions by lawyers are not
4 evidence; two, objections to questions are not evidence.

5 Lawyers have an obligation to their clients to make
6 objections when they believe evidence being offered is improper
7 under the rules of evidence. You should not be influenced by
8 the objection or by the Court's ruling on it. If the objection
9 is sustained, ignore the question. If it is overruled, treat
10 the answer like any other. If you are instructed that some
11 item of evidence is received for a limited purpose only, you
12 must follow that instruction.

13 Testimony on any matter that the Court has excluded
14 or told you to disregard is not evidence and must not be
15 considered.

16 Anything you may have seen or heard outside the
17 courtroom is not evidence and must be disregarded. You are to
18 decide this case solely on the evidence presented here in the
19 courtroom.

20 There are two kinds of evidence: Direct and
21 circumstantial. Direct evidence is direct proof of a fact,
22 such as testimony of an eyewitness. Circumstantial evidence is
23 proof of facts from which you may infer or conclude that other
24 facts exist. I will give you further instructions on these, as
25 well as other matters, at the end of the case. But keep in

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1 mind that you may consider both kinds of evidence.

2 You may also draw all reasonable and legitimate
3 inferences and deductions from the evidence.

4 As judges of the facts, it will be up to you to
5 decide which witnesses to believe, which witnesses not to
6 believe, and how much of any witness's testimony to accept or
7 reject. This part of a jury's responsibility is referred to as
8 determining the credibility of witnesses.

9 Among the factors you may properly consider in
10 deciding whether a particular witness is credible or believable
11 are: One, whether the witness has any motive or reason for
12 being either truthful or untruthful; two, any interest the
13 witness may have in the outcome of the case; three, whether
14 there is any appearance or indication of bias or prejudice in
15 the witness's testimony or conduct; four, the extent to which
16 other evidence supports or contradicts the testimony; five,
17 whether the witness is likely to recall or have knowledge of
18 the facts about which the witness is testifying.

19 Now, a few words about your conduct as jurors.

20 Excuse me. I'm going to go to Instruction 12 and
21 read 11 at the end.

22 I know that many of you use cell phones, the
23 internet, and other tools of technology. You must not talk to
24 anyone at any time about this case or use these tools to
25 communicate electronically with anyone about the case. As I

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1 said, this includes your family and friends. You may not
2 communicate with anyone about the case through any means,
3 including your cell phone, through email, text messaging or
4 Snapchat or Twitter, or through any blog or website, including
5 Facebook, Google, LinkedIn, or YouTube. You may not use any
6 similar technology or social media, even if I have not
7 specifically mentioned it in here.

8 I expect you will inform me as soon as you become
9 aware of another juror's violation of these instructions. A
10 juror who violates these instructions jeopardizes the fairness
11 of the proceedings and a mistrial, which could result, which
12 would require an entire trial process to start over.

13 Depositions may be received in evidence. A
14 deposition is a witness's sworn testimony that is taken before
15 trial. During a deposition, the witness is under oath and
16 swears to tell the truth, and the lawyers for each party may
17 ask questions. A court reporter is present and records the
18 questions and answers. Deposition testimony may be accepted by
19 you, subject to the same instructions that apply to witnesses
20 testifying in open court.

21 Some of the deposition testimony that you may hear
22 will be a video recording of the deposition. Some of the
23 deposition testimony that you may hear will be read out loud by
24 an attorney. If the deposition testimony is read out loud, you
25 should not place any significance on the behavior or tone of

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1 the voice of any person reading the questions or answers.

2 As I explained to you earlier, plaintiffs allege that
3 the defendants in this case engaged in a conspiracy to commit
4 racially motivated violence in violation of federal law 42
5 U.S.C. 1985(3), and also in violation of Virginia law.

6 I will give you more detailed instructions on the
7 legal requirements to prove these claims after the close of the
8 evidence, but before the parties begin their opening statements
9 I want to provide you with a view general instructions
10 regarding the law of conspiracy to help you understand the
11 applicable legal principles.

12 First, a conspiracy is an agreement between two or
13 more persons to join together to accomplish some unlawful
14 purpose. It is a kind of unlawful partnership in which each
15 member becomes the agent of every other member. While the
16 plaintiffs must prove that the conspiracy -- that the alleged
17 conspiracy had an unlawful objective, the plaintiffs need to
18 prove that the conspiracy had only an unlawful purpose -- I'm
19 sorry. Strike that.

20 Plaintiffs need not prove that the conspiracy had
21 only an unlawful purpose. Co-conspirators may have legal, as
22 well as lawful, objectives. A conspiracy may have several
23 objectives, but if any one of them, even if it is only a
24 secondary objective, is to violate the law, then the conspiracy
25 is unlawful.

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1 Plaintiffs do not need to prove that the alleged
2 conspirators entered into any formal agreement or that they
3 directly stated between themselves all the details of the
4 scheme.

5 Plaintiffs are not required to produce written
6 contracts, or even produce evidence of an express oral
7 agreement, spelling out all the details of the understanding.
8 An informal agreement may be sufficient. All plaintiffs must
9 show is that an overall unlawful objective was shared.

10 Plaintiffs are not required to show that all
11 defendants they allege as members of the conspiracy were, in
12 fact, parties to the agreement, or that all of the members of
13 the alleged conspiracy named were named or alleged in this
14 lawsuit, or that all of the people whom the evidence shows were
15 actually members of the conspiracy alleged to all of the means
16 or methods set out in the complaint.

17 By its -- by its very nature, a conspiracy is
18 clandestine and covert, thereby frequently resulting in little
19 evidence of such an agreement. Therefore, plaintiffs may prove
20 a conspiracy by circumstantial evidence.

21 Circumstantial evidence tending to prove a conspiracy
22 may include evidence of a defendant's relationship with other
23 members of the alleged conspiracy, the length of such -- any
24 such association, the defendant's attitude and conduct, and the
25 nature of the alleged conspiracy.

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1 Second, to prove a conspiracy, the plaintiffs will
2 have to show that at least one of the defendants took an overt
3 act in furtherance of the alleged conspiracy.

4 So what is an overt act? The term "overt act" means
5 some type of outward, objective action performed by one of the
6 members of the alleged conspiracy which evidences that
7 agreement. An overt act may be an act which is entirely
8 innocent when considered alone, but which is knowingly done in
9 furtherance of some object or purpose of the conspiracy.

10 Finally, because there are multiple defendants in
11 this case, you will also need to consider which of the
12 defendants, if any, was a member of the alleged conspiracy.

13 One may become a member of a conspiracy without
14 knowing all the details of the unlawful scheme or the
15 identities of all of the alleged conspirators. If a person
16 understands the unlawful nature of a plan or scheme and
17 knowingly and intentionally joins in that plan or scheme on one
18 occasion, that is sufficient to prove that he or she was a
19 member of the conspiracy, even though the person had not
20 participated before, or even though the person played only a
21 minor part.

22 As discussed above, this is a federal civil action.
23 In this type of case, parties are entitled to the disclosure of
24 all relevant, non-privileged evidence the other side possesses
25 or controls, including relevant documents and electronically

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1 stored information. This pretrial process is known as
2 discovery.

3 During the discovery process in this case, I found
4 that defendants Elliot Kline, Robert "Azzmador" Ray, Vanguard
5 America, National Socialist Movement, and Matthew Heimbach
6 failed to comply with their discovery obligations, and as a
7 result, I will issue appropriate sanctions against each of
8 them. The Court will instruct you at a later time with respect
9 to the particular nature of those sanctions.

10 You are cautioned, however, that each party is
11 entitled to have the case decided solely on the evidence that
12 applies to that party. Each -- any sanction against these
13 parties I have mentioned have no bearing on the other parties,
14 and in any event does not relieve plaintiffs of their burden to
15 prove by a preponderance of the evidence the conduct committed
16 by the other defendants in the case.

17 Some evidence may be admitted for a limited purpose
18 only. When I instruct you that an item of evidence has been
19 admitted for a limited purpose, you must consider it only for
20 the limited purpose and for no other.

21 Now, finally, a few more words about your conduct as
22 jurors.

23 First, I instruct you that during the trial you're
24 not to discuss the case with anyone or permit anyone to discuss
25 it with you. This includes your family, friends, and those

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1 with whom you work, as well as your fellow jurors. Until you
2 retire to the jury room at the end of the case to deliberate on
3 your verdict, you simply are not to talk about this case.

4 Second, do not read or listen to anything relating to
5 this case in any way. If anyone should try to talk to you
6 about it, bring it to the Court's attention promptly.

7 Third, do not try to do any research or make any
8 investigation about the case on your own.

9 Finally, do not form any opinion until all the
10 evidence is in. Keep an open mind until you start your
11 deliberations at the end of the case.

12 If you wish, you may take notes during the trial,
13 but, if you do, leave them in the jury room when you leave at
14 night, and remember that they are for your own personal use.
15 Be careful not to get involved in note-taking that you become
16 so -- that you become so distracted and miss part of the
17 testimony. Your notes are only to aid your memory; and if your
18 memory later differs from your notes, rely upon your memory.

19 Do not be unduly influenced by the notes of another
20 person. A juror's notes are not entitled to any greater weight
21 than the recollection of each juror concerning testimony.

22 Recalling the evidence is very important because this is not --
23 this is not a situation where -- sometimes you might see on TV
24 or something, where you will have a transcript of what went on
25 in the courtroom. You're going to have to rely totally upon

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1 the memory of the -- collective memory of the jury when you
2 decide this case.

3 All right. Are plaintiffs ready to start the opening
4 statement?

5 Let me say -- I'll probably interrupt you at some
6 time to take a break. You could maybe go about --

7 MS. KAPLAN: Sure. My friend and colleague Karen
8 Dunn is going to start, and then I will pick up at the very
9 end. Thank you.

10 THE COURT: Okay. You may.

11 MS. DUNN: Thank you, Your Honor. We would like a
12 second just to move the podium.

13 THE COURT: All right.

14 MS. DUNN: Thank you.

15 Ladies and gentlemen of the jury, can you hear me?

16 Thank you.

17 Good morning. My name is Karen Dunn, and today,
18 along with my partner and friend, Robbie Kaplan, we are going
19 to be presenting to you the plaintiffs' opening statement.

20 The purpose of the opening statement, as Judge Moon
21 just explained, is for us to give you a sense of what this case
22 is about and to show you what our evidence in this case is
23 going to show. And I want to warn you from the beginning that
24 some of the evidence that you'll see is graphic and will
25 contain some disturbing images.

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1 This case is a case about violence and intimidation
2 that was planned for months and culminated in a tragic and
3 violent weekend, August 11th and 12th of 2017, right here in
4 Charlottesville, Virginia.

5 (Video playing.)

6 MS. DUNN: Your Honor, I think we're having an audio
7 problem. So, with the Court's indulgence, if Mr. Spalding can
8 work that out.

9 (Video playing.)

10 MS. DUNN: On August 11 of 2017, hundreds of white
11 nationalists from across the country came to Charlottesville.
12 As you will hear, they met up in darkness on UVA's college
13 campus. They chanted: "You will not replace us." "Jews will
14 not replace us." "Blood and soil," a phrase that you will hear
15 originated in Nazi Germany.

16 From there, you will see and hear that the white
17 nationalists climbed the steps of the Rotunda at UVA and
18 descended upon 20 to 30 peaceful, unarmed counter-protesters,
19 most of whom were students at UVA. They had gathered at the
20 base of the Thomas Jefferson statue, and you will see that they
21 linked their arms.

22 The evidence in this case is going to show that the
23 white nationalists encircled the counter-protesters over ten
24 people deep, that they maced and physically attacked the
25 counter-protesters, that they screamed racial slurs at them in

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1 their faces, and that they threw unidentified liquid at them
2 while wielding lit tiki torches. You will hear in this case
3 how after the violence, Defendant Richard Spencer -- he's
4 sitting right over here -- the most prominent white nationalist
5 leader in the country, climbed up on the Thomas Jefferson
6 statue and declared victory.

7 The evidence will also show that the next morning
8 Defendant Spencer emailed his followers via his listserv
9 declaring that what happened at the torch march on August 11
10 was only the prequel. And you will come to learn, ladies and
11 gentlemen, that he was right about that. There was, in fact,
12 much more to come. And the defendants in this case knew that
13 because their plans had been secretly in the works for months.

14 The evidence will show that the next morning, on
15 August 12th, the white nationalists came prepared to commit
16 violence. They wore riot gear. They marched in formation.
17 They carried shields that were later used to break through the
18 counter-protesters, and they carried flag poles that were later
19 used as weapons. And then this happened.

20 Your Honor, it seems we're having some audio problems
21 with the video. I think it's so important that the jury be
22 able to hear, as well as see, that we'd like a moment to fix
23 it.

24 THE COURT: Well, can you fix it?

25 MS. DUNN: Mr. Spalding is saying he thinks it's on

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1 the Court's end.

2 Your Honor, do you think it makes sense to take a
3 break while this is fixed or should we wait?

4 THE COURT: Okay. We'll take a -- we'll go ahead and
5 take about a 20-minute break at this time and try to work this
6 problem out.

7 MS. DUNN: Thank you.

8 THE COURT: We'll let the jury go out first, please.

9 Let me remind you, though, do not discuss the case
10 amongst yourselves. Do not carry on any discussion about the
11 case.

12 **(Jury out, 9:58 a.m.)**

13 (Recess.)

14 THE COURT: All right. I hope we're ready to
15 proceed. I hope now maybe we can finish the plaintiffs'
16 opening statement before lunch.

17 MS. DUNN: Yes, Your Honor. It's a silver lining.

18 **(Jury in, 10:21 a.m.)**

19 THE COURT: All right. Be seated, please. You may
20 proceed.

21 MS. DUNN: Thank you, Your Honor. And thank you,
22 ladies and gentlemen, for your patience. Obviously unexpected
23 things are going to happen during our time together.

24 Because we feel it's so important that you see and
25 hear the evidence, we're going to replay the video that we

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1 showed you from August 11.

2 (Video playing.)

3 (Technical interruption.)

4 THE COURT: Heidi, I think maybe this may be the
5 problem up here. I'm trying to figure out -- maybe I hit
6 something. Do you know how to correct it?

7 (Discussion off the record.)

8 MS. DUNN: Should we try that one again?

9 (Video playing.)

10 MS. DUNN: As we already discussed, ladies and
11 gentlemen, this is what Defendant Spencer declared to be only
12 the prequel. The next day, August 12th, there were many
13 incidents of violence, as we'll discuss, and then this
14 happened.

15 (Video playing.)

16 At approximately 1:41 p.m. on August 12th, Defendant
17 James Fields, who had marched that day with another defendant,
18 Vanguard America, wearing the Vanguard America uniform and the
19 Vanguard America shield, got into his Dodge Challenger and
20 intentionally drove it into a group of peaceful
21 counter-protesters, killing a 32-year-old woman named Heather
22 Heyer and injuring many of the plaintiffs in this case.

23 It is our privilege, ladies and gentlemen, mine,
24 Robbie's, and our colleagues whom you'll meet, to represent
25 nine people who were victims of the violence on August 11th and

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1 12th.

2 We represent people like Marcus Martin. The evidence
3 is going to show that Marcus was hit directly by the car, as
4 you can see in this graphic photo. He's the one circled in
5 red. The evidence will show that Marcus's leg and ankle were
6 shattered when he pushed his fiance, Marissa Blair, out of the
7 way of the car. And Marcus is going to tell you that while his
8 physical injuries may heal, his emotional injuries will not.

9 We represent people like Natalie Romero, whom you
10 will meet today. Natalie had just returned from her first year
11 of college at UVA when she was struck by James Fields's car.
12 The impact of the car fractured her skull, lacerated her face,
13 and forever changed her life. And Natalie is going to tell you
14 that every day when she wakes up and she looks at her face, she
15 is reminded about a nightmare that she can never forget.

16 In just a short while, Robbie is going to introduce
17 you to all of the plaintiffs, all of whom are here in court
18 today, sitting in the jury box. Even though it's going to be
19 extremely difficult for them to come and tell you what happened
20 to them, they are going to tell their stories directly to you,
21 because, as they are going to explain, they believe the truth
22 about what happened in Charlottesville must be told.

23 So while, as I said at the beginning, this is a case
24 about violence and intimidation, for these plaintiffs, they
25 will tell you this is also a case about justice and about

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1 accountability; accountability for those defendants who planned
2 and perpetrated this violence, thinking that they would get
3 away with it. And so on behalf of our plaintiffs, we want to
4 tell you how deeply we appreciate your service on this jury.

5 We know, and, listening over the past few days of
6 jury selection, really understand how hard it is for you to
7 take time away from your families, away from your jobs, and
8 away from your lives. But your service on this jury, ladies
9 and gentlemen, it is so important.

10 As Judge Moon explained to you this morning, you are
11 the finders of the facts. The verdict in this case will be
12 your verdict and your verdict alone. And at the end of this
13 case, our plaintiffs and we are going to ask you to hold the
14 defendants accountable.

15 As you've already heard this morning, Judge Moon will
16 instruct you on the law. And he is going to instruct you in
17 this case about when a conspiracy to commit violence motivated
18 by racial hostility and hatred violates the laws of our
19 country. And your job as the jury is to listen to that law
20 that Judge Moon instructs and apply it to the evidence that you
21 will see with your own eyes and ears in this case. And we are
22 going to show you quite a lot of evidence.

23 We are going to show you evidence like this text
24 exchange between Defendant Christopher Cantwell and Defendant
25 Richard Spencer, both of whom are sitting right here in this

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1 courtroom today.

2 This text exchange is from August 7th of 2017, just
3 four days before the violence in Charlottesville. Defendant
4 Cantwell says to Defendant Spencer: "I'm willing to risk a lot
5 for our cause, including violence and incarceration. But I
6 want to coordinate and make sure it's worth it for our cause."
7 And Mr. Spencer responds: "It's worth it. At least for me."

8 Now, ladies and gentlemen, it is defendants' own
9 communications in this case that are going to show you that the
10 violence of August 11th and 12th was no accident; that the
11 defendants planned for violence, that they executed violence,
12 and that they celebrated and ratified and owned the violence
13 after the fact. And that is what we are going to prove to you.

14 Now, before I introduce the defendants to you, there
15 is one thing I want to say at the outset. And I want to be
16 very clear about this. The plaintiffs in this case did not sue
17 the hundreds of white nationalists who came to Charlottesville
18 to march, to speak out about white nationalist beliefs, or to
19 have a rally. And we want to stress: There is nothing wrong
20 with that. Everyone is entitled to their beliefs, no matter
21 what they are or who they are.

22 The plaintiffs in this case belief firmly in the
23 First Amendment, so much so that the evidence is going to show
24 that the reason that they were at some of these events on
25 August 11th and 12th is because they had come to peacefully

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1 exercise their own First Amendment rights. So this is
2 something we believe in.

3 The plaintiffs in this case only sued the leaders and
4 the organizers who planned the violence and the most violent
5 foot soldiers who carried it out.

6 The defendants in this case may want to focus this
7 case on politics, but that is not what the plaintiffs' case is
8 about. Our case is about the planning, execution, and
9 celebration of racially motivated violence. And I want to be
10 very clear about this: Our case and our plaintiffs do not
11 condone violence by anybody.

12 The evidence is going to show you, ladies and
13 gentlemen, that many of the defendants were key players in the
14 white nationalist movement. The evidence will show that many
15 of the defendants wanted to build a white ethnostate, a country
16 only for white people. And that could only occur after a
17 violent race war. So the evidence is going to show that they
18 wanted to build an army of white nationalists for what they
19 themselves named "the Battle of Charlottesville."

20 Now, there are a lot of defendants in this case, 20
21 individuals and organizations. Believe it or not, during the
22 course of this trial, you are going to get to know all of them
23 very, very well. You will learn how they are connected to each
24 other and how they are connected to the violence.

25 The judge has already instructed you on some of the

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1 law of conspiracy. Here's what he told you this morning. He
2 said a conspiracy is an agreement between two or more persons
3 to join together to accomplish an unlawful purpose. Plaintiffs
4 need not prove that the conspiracy had only an unlawful
5 purpose. A conspiracy may have several objectives, but if any
6 one of them, even if it is only a secondary objective, is to
7 violate the law, then the conspiracy is unlawful.

8 Judge Moon told you that the plaintiffs do not need
9 to prove that the alleged conspirators entered into any formal
10 agreement, or that they directly stated between themselves all
11 the details of the scheme. Plaintiffs are not required to
12 produce a written contract or produce any evidence of an
13 express oral agreement spelling out all the details of the
14 understanding. Even an informal agreement may be sufficient.
15 All plaintiffs must show is that an overall unlawful objective
16 was shared.

17 Judge Moon also told you -- and you'll understand why
18 this is important when you see the evidence -- that, by its
19 very nature, a conspiracy is clandestine and covert, thereby
20 frequently resulting in little evidence of such an agreement;
21 and, therefore, plaintiffs can prove conspiracy by
22 circumstantial evidence, which may include evidence of a
23 defendant's relationship with other members of the conspiracy,
24 the length of any such association, the defendant's attitude
25 and conduct, and the nature of the alleged conspiracy.

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1 And Judge Moon told you that you can become a member
2 of the conspiracy without knowing all the details of the
3 unlawful scheme or the identities of the other alleged
4 conspirators. If a person understands the unlawful nature of
5 the plan or scheme and knowingly and intentionally joins in
6 that plan or scheme on one occasion, that is sufficient to
7 prove that he was a member of the conspiracy, even though that
8 person had not participated before, and even though he played
9 only a minor part.

10 Let's talk about the conspiracy we will prove in this
11 case.

12 The conspiracy in this case began when Jason Kessler,
13 a white nationalist activist from Charlottesville, reached out
14 to the three other men you can see on the screen: Richard
15 Spencer, Eli Kline, who also went by Eli Mosley, and Matthew
16 Heimbach. The evidence will show that Mr. Kessler knew that
17 Mr. Spencer, the most prominent white nationalist in America,
18 would help attract an army for the Battle of Charlottesville.

19 Mr. Kessler also reached out to Matthew Heimbach, the
20 founder of the Traditionalist Worker Party, who has described,
21 as you'll hear, Adolf Hitler as an inspiration. The evidence
22 will show that Mr. Kessler specifically asked Mr. Heimbach to
23 invite violent skinhead groups to the event, and that
24 Mr. Heimbach complied.

25 Mr. Kessler also worked very closely with Eli Kline,

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1 who was also very close to Mr. Spencer. And Mr. Spencer, you
2 will hear, deputized Mr. Kline to make decisions for the both
3 of them. Eli Kline, you will hear, literally wanted to
4 exterminate the Jews.

5 You will learn that the judge has already found that
6 Mr. Kline conspired to commit racially motivated violence, as
7 we will discuss. And Mr. Kline and Jason Kessler, as the
8 evidence will show, communicated frequently and worked
9 full-time on planning the events of August 11th and 12th.

10 THE COURT: Excuse me. You said that the judge had
11 found that Mr. Kline conspired -- what we have decided -- what
12 I decided was that Mr. Kline, because he has not cooperated in
13 the case, given any evidence, he is deemed to have -- and that
14 doesn't mean that he conspired with any other defendant or
15 anything else, but by law Mr. Kline is deemed to have
16 conspired. And the plaintiff has to prove that he conspired
17 with somebody else. But just because he conspired, that
18 doesn't -- because I have deemed him conspired because he
19 failed to comply with the law that he was -- with regard to
20 this case, it doesn't mean that he conspired with anyone else
21 that is a defendant in the case.

22 It's very important you separate and understand that.
23 It will come up with regard to other defendants. Other
24 defendants also who did not cooperate, they will by law be
25 deemed to have conspired. It doesn't mean that I'm saying they

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1 actually conspired. I hope that's clear.

2 But, anyway, go ahead.

3 MS. DUNN: Thank you, Your Honor.

4 Mr. Kline and Mr. Kessler worked full-time to plan
5 the events of August 11th and 12th. Mr. Kline brought along
6 his white nationalist group called Identity Evropa, and had
7 weekly calls with Identity Evropa's founder, Defendant Nathan
8 Damigo. Identity Evropa -- you'll hear about this group --
9 they're known for recruiting on college campuses.

10 You will see that Mr. Heimbach worked closely
11 organizing the event not just with Mr. Kessler and Mr. Kline,
12 but also with his long-time best friend, Matthew Parrott, a
13 computer programmer who, you will see, later encouraged anyone
14 associated with violence in Charlottesville to destroy
15 evidence.

16 Now, Mr. Heimbach then enlisted another group called
17 League of the South and its leaders, Michael Hill and Michael
18 Tubbs. You will see evidence in this case, ladies and
19 gentlemen, that Defendant Hill posted on the League of the
20 South website his own Pledge of Allegiance, which stated: "I
21 pledge to be a white supremacist, a racist, an anti-Semite, a
22 homophobe, a xenophobe, an Islamophobe and any other sort of
23 'phobe' that benefits my people, so help me God!"

24 Now, Eli Kline and Matthew Heimbach also reached out
25 to another group you'll hear about called Vanguard America.

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1 Vanguard America is another organization that believes America
2 should be a nation only for white people.

3 James Fields, the defendant we talked about who drove
4 the car that killed Heather Heyer, has admitted that he was
5 inspired by Richard Spencer and others to go to the Battle of
6 Charlottesville. And you will see that, on that day of the car
7 attack, he marched with Vanguard America, wearing the Vanguard
8 America uniform and shield.

9 During the planning for Charlottesville 2.0, Dillon
10 Hopper, who you see in the center of the screen, was the leader
11 of Vanguard America and had communications with both
12 Mr. Heimbach and Mr. Kline.

13 Thomas Ryan Rousseau, who you see on the screen to
14 your left, also had communications with Mr. Kline and took
15 control of Vanguard just before Charlottesville 2.0 and led the
16 troops on the ground on August 12.

17 Mr. Heimbach from Traditionalist Worker Party also
18 connected Mr. Kessler, one of the lead organizers, to Defendant
19 Jeff Schoep, founder and commander for 25 years of the National
20 Socialist Movement, which describes itself as "America's Nazi
21 Party." Mr. Schoep offered Mr. Kessler, for the Battle of
22 Charlottesville, men who were battle-tested in the streets.

23 You will hear that those four organizations, National
24 Socialist Movement, Vanguard America, League of the South, and
25 the Traditionalist Worker Party, and their leaders, Defendants

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1 Heimbach, Schoep, Hill, Tubbs, Hopper, and Rousseau, formed an
2 alliance called the Nationalist Front to further their common
3 purpose and plan. And all of these groups, ladies and
4 gentlemen, including Identity Evropa, are defendants also in
5 this case. The defendants are both the groups and the
6 individuals.

7 Now, Defendant Kessler, the evidence will show, also
8 contacted Defendant Christopher Cantwell, a white nationalist
9 who, the evidence will show, was known for advocating violence
10 on his podcast to an audience that he will say contained armed
11 extremists.

12 And the evidence will show that Mr. Kline, who wrote
13 for the neo-Nazi publication called Daily Stormer, wanted to
14 involve more of the Stormers and their leader, Robert
15 "Azzmador" Ray, who was a prominent writer for the website.
16 Mr. Ray traveled to Charlottesville with Mr. Rousseau from
17 Vanguard America. And Mr. Ray, who also refused to participate
18 entirely in this litigation, is similarly situated to what
19 Judge Moon just told you about Mr. Kline.

20 You will see evidence, ladies and gentlemen, that
21 leaders of this conspiracy inspired foot soldiers to carry out
22 the violence; not just inspiring James Fields, but also other
23 violent white nationalists like somebody you'll hear about
24 called Ben Daley and Vasilios Pistoris, both of whom you will
25 hear invoke their rights not to incriminate themselves under

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1 the Fifth Amendment when we ask them about the violence in
2 Charlottesville.

3 As the evidence comes in, you are going to see,
4 ladies and gentlemen, all of the connections in the conspiracy.
5 You will hear that the defendants met in person. You will hear
6 that they held weekly phone calls. You will hear that they
7 communicated on a private chat platform called Discord; that
8 they communicated via other social media, through emails,
9 letters, through phone calls and texts. And you will hear how
10 they celebrated each others' racially motivated violence.

11 By the time that we speak to you again in closing,
12 you will be able to make all of these connections that you see
13 on the screen yourself based on the evidence that we are going
14 to present to you in this trial.

15 So let's take a closer look at the conspiracy.

16 As I said, plaintiffs are going to prove that
17 violence was planned, that it was executed, and that it was
18 celebrated by the defendants. So let's start with the
19 planning.

20 The evidence in this case is going to show that
21 defendants planned the conspiracy mostly through private
22 channels. As we heard this morning, conspiracies tend to be
23 clandestine and secret.

24 This is an email on the screen now that you will see
25 from Defendant Michael Hill, the leader of League of the South.

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1 On May 17th, he issued this directive to his people. He called
2 it an "Official Call for Resistance." And he gave them
3 instructions on how to communicate. He said: "I want no
4 discussion here or elsewhere online of any resistance
5 strategies, tactics, logistics, plans, operations, or after
6 action reports. Those all will be handled through secure
7 channels."

8 You will come to understand day by day, ladies and
9 gentlemen, that the defendants never expected their planning
10 communications to see the light of day, much less the inside of
11 a courtroom.

12 You will also learn in this case about a private chat
13 platform called Discord. And we are going to show you that the
14 majority of the planning occurred over this chat platform
15 called Discord. You will also hear that many of the
16 defendants' private Discord chats were unexpectedly made public
17 about four years ago, just prior to the time when plaintiffs
18 filed this lawsuit.

19 Now, defendants established what was called a
20 Charlottesville 2.0 server on Discord. And that requires me to
21 explain that there was a Charlottesville 1.0 that we'll talk
22 about. That event occurred earlier in 2017.

23 Within the Charlottesville 2.0 Discord server, you
24 are going to see many channels. And channels are just like
25 chat rooms within the server where people can communicate. And

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1 what you see on the screen right now are some examples of the
2 channels that you will see where the defendants communicated to
3 plan Charlottesville 2.0.

4 Now, Charlottesville 2.0 wasn't the only server where
5 this planning went on, but it was one of the main servers. And
6 so some of the channels you can see here have to do with
7 leadership meetings and discussions, with chants, with gear and
8 attire and other things. But you'll also see, ladies and
9 gentlemen, that most of the groups who are defendants in this
10 case had their own channels on the Charlottesville 2.0 server
11 where some of their planning went on. And you can see on the
12 screen the names Identity Evropa, League of the South,
13 Traditionalist Worker Party, and Vanguard America. That's the
14 group that James Fields marched with.

15 To really understand what happened here in
16 Charlottesville on August 11th and 12th, we do need to go back
17 at least as far as April 15th of 2017.

18 Plaintiffs are going to show that a defendant named
19 Nathan Damigo -- he was head of Identity Evropa; he also went
20 by the Discord name "Fashy Haircut" -- punched a
21 counter-protester at an event in Berkeley, which made him
22 somewhat famous in the white nationalist movement. Here's a
23 picture that you're seeing, and that you'll see in this case,
24 of that punch. This event became known -- it was April 15th of
25 2017, and it became known as "the Battle of Berkeley."

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1 You will hear what Richard Spencer said in April of
2 2017 after the Battle of Berkeley.

3 While they work on that, I will just tell you what he
4 said, because it's on the screen.

5 He said: "We have entered a new world. We have
6 entered a world of political violence, and I don't think
7 anything is going to be the same."

8 You will also see evidence, ladies and gentlemen, of
9 Charlottesville 1.0, which I mentioned, when five of the
10 defendants -- Richard Spencer, Nathan Damigo, Eli Kline, Jason
11 Kessler, and Matthew Heimbach -- all gathered together on
12 May 13th, 2017 in Charlottesville. They held a torch march,
13 just like at Charlottesville 2.0. They gave speeches like this
14 one, where Richard Spencer talked about a meme that he was born
15 at the right time for the race war, after which the crowd
16 erupted in applause. And that's what went on publicly.

17 But you will also see evidence from a private
18 afterparty on May 13th, following Richard Spencer's speech and
19 the torch march, where Defendants Spencer, Kline, and Heimbach
20 engaged in a chant of "Sieg Heil," which was the phrase used to
21 salute Adolf Hitler in Nazi Germany.

22 I would like to play you the video of that.

23 It's playing, but you can't hear it.

24 THE CLERK: Matt, the IT guy said you need to stop
25 for a minute.

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1 MS. DUNN: Can we get the video and the audio
2 together?

3 (Video playing.)

4 MS. DUNN: So as you will see, ladies and gentlemen,
5 the defendants in this group, which included Defendants
6 Spencer, Kline, and Heimbach, they don't know that this video
7 is being taken. And what they say and do privately behind
8 closed doors is going to tell us a lot about their true motives
9 and plans in this case.

10 The evidence will show that the planning for
11 Charlottesville 2.0, the Battle of Charlottesville, began
12 shortly after Charlottesville 1.0.

13 This is a text exchange between Jason Kessler and
14 Richard Spencer from June 5th of 2017. Mr. Kessler writes,
15 "We're going to start the promotional material for
16 Charlottesville 2: Unite the Right: Battle of
17 Charlottesville," and asks Mr. Spencer if he's going to be one
18 of the headliners for the events. Mr. Spencer verifies the
19 date, August 12th, asks about the attendance of Mr. Damigo, and
20 then says, "I'm there." He agrees. And in response,
21 Mr. Kessler says, "We're raising an army my liege. For free
22 speech, but the cracking of skulls if it comes to it."

23 So we are going to ask you, ladies and gentlemen, to
24 remember communications like this if the defendants tell you
25 that they didn't plan violence in Charlottesville.

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1 On the very same day that Defendants Kessler and
2 Spencer were discussing raising an army for the cracking of
3 skulls, Defendant Matthew Heimbach exchanged messages on the
4 Discord server with Dillon Hopper, who went by Discord name
5 White-PowerStroke (Dillon), and you'll recall was the leader of
6 Vanguard America. Defendant Heimbach writes, "Yep, so now
7 basically we've got 90 percent of the real orgs in America
8 together. With the leadership being you, me, Jeff" -- that's
9 Jeff Schoep -- "and Dr. Hill." That's Michael Hill of League
10 of the South.

11 Dillon Hopper, of Vanguard America, writes back, "Now
12 all we need is Spencer" -- Richard Spencer -- "and Damigo" --
13 Nathan Damigo. And Mr. Heimbach responds, "Well, this is where
14 Charlottesville comes in. We're all doing it together."
15 "We're all doing it together."

16 You will see very powerful evidence of conspiracy in
17 this case.

18 And even though we expect that at this trial the
19 defendants are all going to point fingers at one another and
20 say someone else was to blame, there will be no question that
21 at the time, they were all doing it together.

22 The evidence will show that on this very same day,
23 June 5th, Eli Kline committed to Jason Kessler that he would
24 help with the rollout. That's the top text you see on the
25 screen. On the bottom text between the two of them he wrote,

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1 "You and I should get used to speaking daily now. Now that
2 this is my full-time job, I'll be much more available to you."

3 And you will see evidence that the two of them were
4 the lead organizers of this event.

5 Two days after describing his work to plan the Battle
6 of Charlottesville as his full-time job, you will see that
7 Mr. Kline posted on Discord about his continued planning and
8 coordination efforts. He wrote, "I've been working heavily
9 with VA guys for a while now, and we should have a conference
10 with some leadership on some stuff, including Charlottesville."

11 VA you will come to understand stands for Vanguard
12 America. And you will learn during this trial, as you will see
13 in the picture on the right of this screen, Defendant Kline and
14 Defendant Fields were together on August 12th where Defendant
15 Fields is wearing the Vanguard America uniform, holding the
16 Vanguard America shield, shortly before he drove his car into a
17 crowd of people, including some of the plaintiffs that you see
18 in this courtroom today.

19 As the Judge has already told you, this case is about
20 a conspiracy to commit violence motivated by racial animus or
21 hostility. And that includes racial and religious minorities
22 and their supporters. We are going to show you in this case
23 that defendants came to Charlottesville with a plan for
24 violence, and with racial and religious hatred, and that they
25 used racial and religious hatred to motivate others to join.

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1 For example, we will show you that Mr. Kline referred
2 to himself as the Judenjäger. That means Jew hunter, and it's
3 also a Nazi phrase. You will learn that incredibly,
4 Mr. Kline's actual job was working for an exterminator. And
5 Mr. Kline's girlfriend at the time, who lived with him while he
6 planned these events -- her name is Samantha Froelich -- she
7 will testify via video for you that Mr. Kline wanted to kill
8 Jews instead of cockroaches, that he was excited to kill Jewish
9 people and that he would gas the kikes forever. "Kikes" is a
10 slur for Jewish people, and the phrase "gas the kikes" is sadly
11 something that you will hear quite a lot in this case.

12 We will show you this letter, ladies and gentlemen,
13 where you can see Defendant Matthew Heimbach sent to his many
14 followers about August 12th. These are to all the members of
15 the Traditionalist Worker Party: "We need to scare these
16 people, and the way to achieve that is with numbers,
17 discipline, and determination. We must send a message to the
18 Jewish oligarchs and their hordes of minions that we will not
19 go silently into the night as they desire. No, we will fight
20 them, we will defeat them, and we will secure our people's
21 destiny."

22 Adolf Hitler famously said -- he quotes Hitler in his
23 letter -- "Those who want to live, let them fight, and those
24 who do not want to fight in this world of eternal struggle do
25 not deserve to live."

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1 And he closes this letter by saying, "So be there,
2 August 12th in Charlottesville, and let us tell the entire
3 world with a mighty and triumphant voice, we will not be
4 replaced."

5 You will hear audio evidence like this from Defendant
6 Chris Cantwell -- he's sitting right over there. This is from
7 his podcast of January 2017.

8 (Video playing.)

9 And you will see social media posts like this one by
10 Defendant Michael Hill, the leader of League of the South. He
11 says via tweet, "If you want to defend the South and Western
12 civilization from the Jew and his dark-skinned allies, be at
13 Charlottesville on 12 August."

14 You will see, ladies and gentlemen, that the planning
15 documents from the organizers and leaders are filled with
16 racial hatred and that they fully anticipate violence.

17 James Fields, as part of his criminal case,
18 acknowledged in court documents that he expressed and promoted
19 his view that white people are superior to other races and
20 peoples, expressed support of the social and racial policies of
21 Adolf Hitler and Nazi era Germany, including the Holocaust, and
22 espoused violence against African Americans, Jewish people, and
23 members of other racial, ethnic and religious groups he
24 perceived to be non-white. And Mr. Fields admitted that he
25 also expressed these views directly in interactions with

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1 individuals known to him.

2 So plaintiffs are not going to lack for evidence of a
3 racially motivated conspiracy in this case.

4 The evidence will show, ladies and gentlemen, that
5 not only did defendants and their co-conspirators plan
6 violence, they specifically discussed the tools of violence for
7 the Battle of Charlottesville. And you will learn and come to
8 understand that they knew they couldn't show up in
9 Charlottesville with visible weaponry, so instead they
10 weaponized things like mace, which they refer to as "gas,"
11 their fists, shields, flag poles, and a car. Things that we
12 don't usually think of as weapons.

13 And you will come to understand that that was
14 entirely the point: plausible deniability. Just like mace and
15 shields and flag poles was a tool of this conspiracy.
16 Plausible deniability is when you set up a situation in such a
17 way that you can claim later you had nothing to do with it. We
18 expect that is exactly what you will see and hear from the
19 defendants in this case.

20 Now, first let's talk about mace as a tool of
21 violence, which the evidence will show defendants also called
22 "gas," that you'll come to understand was another reference to
23 Hitler killing Jews.

24 Here are two private Discord posts you will see from
25 the summer of 2017. In the top post, Dillon Hopper, the leader

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1 of Vanguard America, the group that Fields marched with, says
2 that at Charlottesville he will give a six-word speech: "Gas
3 the kikes, race war now."

4 Beneath that you will see that Defendant Robert
5 "Azzmador" Ray uses the exact same language, several weeks
6 later, about two weeks before August 11th. He says, "I just
7 got done with an hours-long chat with some of the event
8 organizers and I feel better about the thing. The plan is the
9 same: Gas the kikes."

10 You will be able to tell that this was not a random
11 phrase or a one-off or a joke. This was a plan discussed for
12 hours with the organizers of the Battle of Charlottesville of
13 August 11th and 12th.

14 And you will see, ladies and gentlemen, that the
15 defendants also planned for street brawls as a tool of
16 violence. You will see Eli Kline, who also goes by Eli Mosley
17 on the Discord, you will see what he said: "I think we are
18 going to see some serious brawls at Charlottesville next month
19 too, and we'll see blood on some of those white polos LOL."
20 The white polos that you see Mr. Kline talking about, that's a
21 reference to the dress code for Charlottesville 2.0, which were
22 white polos and khaki pants worn by many, including by James
23 Fields and others in Vanguard America. And you'll see that in
24 video and in photographs of the day.

25 Now, just like mace and street brawls, the conspiracy

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1 planned to use flag poles as tools of violence. You will see
2 posts like this one by Michael Chesny. He went by the Discord
3 handle, Tyrone. And we are going to prove that he was a
4 co-conspirator. He was assigned to organize transportation for
5 the event. You will see in posts like this where he is posting
6 on the flags, banners and signs channel in the Charlottesville
7 2.0 server, somebody named Kurt says, "Impaling people is
8 always the best option, TBH," to be honest. Then somebody
9 named Krystal.Night says "There are some really nice hard wood
10 poles that are two piece, but also cheaper ones that won't be
11 very useful to double as spears, LOL."

12 And Tyrone, Michael Chesny, who we'll prove is a
13 co-conspirator, says, "Agreed, @Kurt." That's the first poster
14 in the chat.

15 So we talked about mace, talked about flag poles.
16 Let's talk about shields, using shields as weapons. This is a
17 post by Defendant Ray in the general chat channel. This is
18 just two days before the event. And when he's saying here --
19 he says "@everyone," message to everyone: "I couldn't possibly
20 be more proud of you guys or happier with the way these shields
21 turned out. I will be both elated and humbled to stand with
22 you men and address the media and fight the hordes of filth and
23 scum. This is our day. Charlottesville will be ours. Texas
24 will be ours. The world will be ours."

25 So mace, street brawls, flag poles and shields.

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1 Let's talk about cars. While watching somebody run over
2 counter-protesters may seem shocking for most of us, you will
3 come to understand that it was reasonably foreseeable as a
4 result of this conspiracy that a car could run over
5 counter-protesters. You will see this post on the screen right
6 now from Defendant Heimbach. This is from nine months before
7 James Fields drove his car into a group of counter-protesters.
8 He says, "Leftist protesters blocking the road with weapons,
9 threats and violence while making you fear for your life?
10 #hitthegas."

11 You will see this post by Defendant Cantwell: "Hey
12 communists, remember this like your life depends on it, because
13 it does: Blocking traffic is not peaceful protest, and every
14 person who reminds you of that without using his car, is giving
15 you more slack than you fucking deserve."

16 And you will see posts like this by Michael Chesny.
17 He went by Tyrone. We just talked about him a few minutes ago.
18 He was the one in charge of transportation. He posts in the
19 Charlottesville 2.0 server in the channel about shuttle service
20 information this fake advertisement for a multi-lane protester
21 digester. And he says, "Sure would be nice."

22 So just like the other defendants, you will see James
23 Fields posted about driving his car into a group of protesters,
24 not once, but twice in May of 2017. He says, "You have the
25 right to protest, but I'm late for work."

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1 And you, ladies and gentlemen, have seen and you will
2 see the photos of the actual car attack on August 12th in 2017.
3 And so you are going to be able to see how eerily similar these
4 posts were to the car attack that happened just three months
5 later.

6 So now that we've spoken about the planning and about
7 the conspiracy, I'd like to speak with you specifically about
8 the execution of the violence, first on August 11th, and then
9 on August 12th.

10 This is a map of UVA's college campus that we hope
11 will help you understand what happened on Friday night, August
12 11th. The evidence will show that while plans for a rally on
13 August 12th were public, the defendants kept their plans for
14 the Friday night torch march a secret, at least from the people
15 of Charlottesville and from the University of Virginia. The
16 hundreds of white nationalists who showed up from out of town,
17 however, they were in on the plan. They all obtained their
18 torches in advance and gathered under cover of darkness at a
19 place called Nameless Field on the UVA campus. That's all the
20 way to the right of the screen.

21 Now, you can see on this map that the most direct
22 route from Nameless Field to the Thomas Jefferson statue is to
23 walk down this road called University Avenue. And remember,
24 Mr. Kessler is from Charlottesville. He and Mr. Spencer both
25 went to UVA. So they knew the grounds. The evidence will show

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1 that this is not the route that the white nationalists took
2 with their torches. Instead, they took this long, more winding
3 route marked on this map by the yellow dots. They passed the
4 library, the student union, the bookstore, a residential
5 college, the amphitheater, and eventually they walked straight
6 up what's called The Lawn. And that's that patch of green you
7 see in the upper left-hand corner of the slide.

8 And that's where students and faculty live. And it's
9 considered the heart of the UVA campus. They marched right
10 down The Lawn to the Rotunda, which has steps that descend down
11 to the Thomas Jefferson statue.

12 You will see pictures of the scene around the statue
13 that night where approximately somewhere between 2- to 500
14 white nationalists surrounded about 20 to 30
15 counter-protesters, which were mostly students, including
16 plaintiffs here today, Devin Willis and Natalie Romero.

17 You will see with your own eyes, ladies and
18 gentlemen, that the students carried this banner which said "VA
19 students act against white supremacy," and that they kept their
20 heads down and their arms linked, unarmed, and you will hear,
21 terrified.

22 The evidence will demonstrate that the defendants in
23 this case engaged in violence. In this photo you can see
24 Defendant Robert Ray. He is the man in the hat with his left
25 arm outstretched, spraying someone with mace. And you will

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1 hear Mr. Ray, who went by "Azzmador," on video the next day
2 saying proudly that he personally gassed half a dozen kikes on
3 August 11.

4 Now, also in this photo you can see Defendant
5 Christopher Cantwell. And it is a little bit difficult to see
6 what he is doing here. Here is a closer-up view of
7 Mr. Cantwell on that same evening, also with his arm
8 outstretched, also spraying mace in someone's face.

9 Now, you will come to understand that other members
10 of the conspiracy did not walk away from the violence. They
11 embraced it. They owned it. They promoted it. And they
12 celebrated it.

13 This is a post that you will see on Twitter by Jason
14 Kessler. You will see that he called the violence and
15 intimidation of August 11th, what Robert "Azzmador" Ray called
16 the gassing of kikes, "an incredible moment for white people."

17 You will see that James Fields also tweeted about
18 August 11th. He retweeted Dr. David Duke, and that this was
19 also a celebration of the violence, saying that on August 11th,
20 "our people on the march," asking, "will you be there
21 tomorrow?"

22 And you will see this text between Eli Kline and
23 Jason Kessler telling each other what great work that they had
24 done, and looking ahead to the next day. Mr. Kline says at
25 11:15 that night after the violence at the Thomas Jefferson

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1 statue, "Great work. Rest easy." And Mr. Kessler responds,
2 "You've done excellent work too. Let's knock this out of the
3 park tomorrow."

4 Now, August 12th, as you've heard, was the
5 long-scheduled Unite the Right event which was to take place in
6 what's called today Emancipation Park. It had formerly been
7 called Lee Park, and that's the yellow box you see in the top
8 left of the slide. This slide shows you some of the important
9 places that you will hear about related to events of August
10 12th.

11 On the morning of August 12th, the evidence will show
12 that one group of the defendants gathered in McIntire Park and
13 took vans to Emancipation Park. Another group of defendants
14 met up and coordinated at the Market Street garage -- that's a
15 parking garage -- and headed west on Market Street towards
16 Emancipation Park. You are going to hear evidence and see
17 evidence that members of the two groups coordinated with each
18 other throughout the day. And we've also marked on this map
19 for you the intersection of Fourth and Water, because that's
20 where James Fields drove his car into the group of
21 counter-protesters.

22 You are going to see videos from August 12th. You're
23 going to see a lot of videos from August 12th. You will see
24 this video, which is one of Defendant Kline directing the first
25 group of his troops, including members of Defendants Identity

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1 Evropa and Vanguard America, dressed in the uniform we talked
2 about of white polos and khakis.

3 (Video playing.)

4 You will see in videos and photographs, ladies and
5 gentlemen, Eli Kline leading men whose fists are taped up like
6 they're boxers. And as predicted by Mr. Kline in the Discord
7 posts you saw earlier, you will actually see blood on the white
8 polos, including his.

9 Now, one of the people that Mr. Kline is leading on
10 August 12th, the evidence will show, and we will prove is a
11 co-conspirator, is a man named Benjamin Daley. And he's the
12 blond individual with the sunglasses that you can see on the
13 screen. You will hear that when we asked Mr. Daley whether he
14 choked a counter-protester and whether Mr. Kline and he threw
15 her off the sidewalk, he invoked his right under the Fifth
16 Amendment not to incriminate himself.

17 You will also see what happened when the National
18 Front defendants, that's Traditionalist Worker Party, League of
19 the South and National Socialist Movement, who were walking
20 west on Market Street, encountered counter-protesters standing
21 in the street. You will see this video start with Defendant
22 Heimbach standing shoulder to shoulder with Defendants Hill and
23 Tubbs, and you will hear him give an order, "shields up," to
24 the troops. You will see that shields were used as weapons and
25 not for protection.

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1 (Video playing.)

2 You will hear, ladies and gentlemen, that after the
3 National Front defendants smashed their way through the
4 counter-protesters with shields, Defendant Tubbs led a charge
5 where one of the co-conspirators in this case rolled up his
6 flag and beat counter-protesters with it. You can see
7 photographs of that on your screen.

8 The evidence will show that Vasilios Pistolis was
9 asked whether he brought that flag to use it as a weapon, and
10 he, too, invoked his rights under the Fifth Amendment not to
11 incriminate himself.

12 Ladies and gentlemen, you will also see this upcoming
13 tragic video from the Market Street garage that we talked about
14 where Defendant Tubbs watched as members of the Traditionalist
15 Worker Party and League of the South brutally attacked and beat
16 with flags and shields a 20-year-old special education aide
17 named DeAndre Harris.

18 (Video playing.)

19 As we told you, ladies and gentlemen, some of the
20 evidence in this case is truly difficult to watch.

21 You will hear that not only did the defendants in
22 this case plan and execute violent acts, but you will see they
23 ratified the violence, they owned the violence, and they
24 celebrated the violence.

25 The evidence will show that the leaders of this

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1 conspiracy were very proud of what the Battle of
2 Charlottesville had accomplished. They declared the event a
3 huge success, as you will see over and over, including what's
4 on the screen right now, which is the National Front's report
5 of what happened. They called that an after-action report.

6 And as you will see, on August 13th, the day after
7 the violence occurred, Defendant Richard Spencer declared it to
8 be a huge moral victory in terms of the show of force.

9 You will see this post by Defendant Jeff Schoep, the
10 commander of the National Socialist Movement, NSM: "It was an
11 honor to stand with you all in Charlottesville this weekend.
12 National Socialist Movement, Nationalist Front, Traditionalist
13 Worker Party, League of the South, Vanguard America."

14 And you will see this post by Michael Hill, leader of
15 League of the South: "The League of the South had a good day
16 in Charlottesville, Virginia. Our warriors acquitted
17 themselves as men. God be praised!"

18 And you will see this post, ladies and gentlemen, by
19 Defendant Christopher Cantwell, who will speak with you later
20 today. He says: "If you think the alt-right is insignificant,
21 you might want to ask the bleeding commie filth we sent to the
22 morgue and hospitals how insignificant we are."

23 Ladies and gentlemen, the evidence will show that not
24 only did the defendants celebrate and ratify the violence
25 generally, they specifically celebrated the car attack. So, in

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1 case Mr. Cantwell tells you during this trial that he believes
2 in peaceful protest, you will see this post is what he thinks
3 democracy looks like. This is the picture of Mr. Fields
4 driving his car into the crowd of counter-protesters at Fourth
5 and Water.

6 He and other defendants supported Defendant James
7 Fields in many other ways, too, that you'll hear about. They
8 called him in jail repeatedly. They wrote him letters of
9 solidarity and comfort. They sent him Christmas cards. They
10 put money in his account at the prison. They asked him to put
11 them on his visitors' list. And you'll hear that Mr. Kessler
12 attended Mr. Fields's criminal trial.

13 And so if the defendants get up here and they say how
14 sorry they are that all this violence happened and how it was
15 just James Fields's fault all alone, we will show you their own
16 words, their own posts, like this one from lead organizer Jason
17 Kessler. On August 18th he posted: "Heather Heyer was a fat,
18 disgusting Communist. Communists have killed 94 million.
19 Looks like it was payback time."

20 Now, you may hear Mr. Kessler say something different
21 than this during this trial, but this post is not even from the
22 day of the car attack. This was six days later, after he had
23 time to think about it, and this is what he has to say: "It's
24 payback time."

25 So, as I said earlier, ladies and gentlemen, we are

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1 going to show you a lot of evidence of this conspiracy; of the
2 planning, of the execution, of the celebration of the violence
3 that happened here in Charlottesville. And we only have so
4 much time this morning, and so we can only show you some of the
5 evidence. And as the jury, as we've talked about, your job is
6 to consider that evidence.

7 But you will also be able to consider that there was
8 evidence that you can't see, because in this case there is
9 evidence that went missing, or fell in the toilet, literally,
10 like Jeff Schoep's phone.

11 You will learn that eight of the defendants in this
12 case destroyed or refused to produce evidence. And as I
13 already talked about, you will see that Defendant Matthew
14 Parrott, who is here with us in the courtroom today, posted
15 publicly on social media encouraging everyone involved in
16 violence in Charlottesville to delete the evidence.

17 For example, Vanguard America, as you've heard about
18 over and over -- the group that Eli Kline worked with so
19 closely, and the group that James Fields marched with
20 immediately before the car attack -- Vanguard America produced
21 no materials in this litigation. You are going to see so much
22 evidence in this case. They produced nothing.

23 We will ask you to think about, ladies and gentlemen,
24 whether it is believable to you that Vanguard America, a group
25 with an entire channel on the Discord server, that marched in

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1 formation with pre-made shields, that they had no documents
2 relevant to this case.

3 The Court is going to instruct you about what
4 conclusions you can draw about the destruction of evidence.
5 You're going to see a lot in this case.

6 You will also be able to consider expert testimony in
7 this case. I want to tell you about an expert that we will
8 present named Professor Peter Simi. He is one of the country's
9 leading experts on violent extremism and on white supremacy.
10 Professor Simi will testify that, in his expert opinion, the
11 defendants used strategies of plausible deniability to avoid
12 accountability for what they had done.

13 They used doublespeak, which is language that is
14 designed to mean one thing to people on the inside and
15 something different to everyone else on the outside.

16 They talked in code, and Professor Simi will help you
17 decode their words.

18 They used humor. Remember the post we saw that says
19 "LOL," laugh out loud. They ended threatening posts with humor
20 and "LOL," so that later, they could say, as they might today,
21 and for sure will say during this trial, "We were just joking.
22 This is all a joke," as if somehow this could be a joke.

23 And they acted one way in public and another way in
24 private. And this is something that Professor Simi is going to
25 call front-stage/backstage communication. Remember the Sieg

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1 Heil video. Front-stage/backstage communications.

2 So we do expect, ladies and gentlemen, that
3 defendants will be able to show you some communications where
4 they're not using racial slurs, where they're not being
5 violent, because that's purposeful, you will see. And we hope
6 that you will pay close attention to whether the defendants
7 knew they were being recorded, knew that their chats would come
8 out. In other words, is what you're saying a front-stage or is
9 it a backstage communication?

10 And I talked earlier about a woman who you'll hear
11 testimony from whose name is Samantha Froelich. And Samantha
12 Froelich lived with Eli Kline while he planned this. She used
13 to be a member of the white nationalist movement. She left the
14 movement. And her testimony is an insider's perspective for
15 you about what was going on. And she is going to tell you how
16 optics were so important. She is going to tell you that,
17 rather than use racial slurs in public or do Nazi salutes, you
18 should wear loafers and slacks, so, for example, white polos
19 and khakis.

20 She is going to tell you also about plausible
21 deniability. She doesn't know Professor Simi. She is going to
22 independently tell you that a strategy of plausible deniability
23 is what was going on here. After you see all the evidence in
24 this case, that strategy is going to leap off the page, ladies
25 and gentlemen.

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1 Now, I also want to talk about one other thing that
2 Professor Simi will discuss with you, which is the tactic of
3 baiting and provoking targets to attack, something also called
4 triggering. What you're seeing right now on the screen are two
5 Discord posts from two different defendants in the summer of
6 2017, Defendant Kessler and Defendant Ray.

7 On July 11th, Mr. Kessler says -- by the way,
8 Mr. Kessler also went by the name MadDimension. So that's why
9 it says "MadDimension." But that's Mr. Kessler. He says: "If
10 Bellamy shows up we talk shit and try to trigger a chimpout."

11 Wes Bellamy is the former vice mayor of
12 Charlottesville, and he's black.

13 Defendant Robert Ray posted on August 3rd -- very
14 close in time -- he says, talking about the upcoming Battle of
15 Charlottesville: "I'm looking forward to BLM" -- that's Black
16 Lives Matter -- "more than Antifa. Blacks are the easiest
17 people on earth to trigger. I predict some gloriously
18 hilarious chimping."

19 So ladies and gentlemen, you will see two nearly
20 identical posts just a couple of weeks before, right before
21 August 11th and 12th, using the exact same racial slurs and
22 using the exact same language about triggering.

23 This is just the tip of the iceberg, ladies and
24 gentlemen.

25 There's other evidence that you will see which is

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1 consistent with Professor Simi's expert opinion. You will see
2 a style guide posted by The Daily Stormer, the most well-known
3 white supremacist website in the country, which took its name
4 from the Nazi Party's newspaper called Der Stürmer. The Daily
5 Stormer style guide is very important to look at. And it will
6 be admitted into evidence during this trial. There's a lot in
7 it. Some of it is on the screen in front of you.

8 The style guide says: "Generally, when using racial
9 slurs, it should come across as half-joking -- like a racist
10 joke that everyone laughs at because it's true." It goes on to
11 say that: "The unindoctrinated should not be able to tell if
12 we're joking or not. There should also be a conscious
13 awareness of mocking stereotypes of hateful racists. I usually
14 think of this as self-deprecating humor. I am a racist making
15 fun of stereotype of racists, because I have don't take myself
16 super-seriously. This is obviously a ploy and I actually do
17 want to gas kikes. But that's neither here nor there."

18 So if you hear defendants say that they don't really
19 mean they will gas kikes and many other people, and that they
20 don't really mean that they are trying to trigger black people,
21 something they refer to as a "chimpout," or they don't really
22 mean for people to run over counter-protesters with cars, you
23 will see the evidence yourself that shows you that that is what
24 they meant, because that's what actually happened.

25 So we expect that, when the defendants stand up here

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1 today, they are going to continue this strategy of plausible
2 deniability, of saying this case was not about their planning,
3 their execution, or their celebration of racially motivated
4 violence.

5 But at the end of the day, it is going to be the
6 evidence in this case, which is defendants' own words, their
7 own Discord posts, their own posts on other social media, their
8 own texts, their own audio, their own communication, photos and
9 videos, and tapes of their conduct on August 11th and 12th.
10 And that is what's going to show you, ladies and gentlemen,
11 what is true and what cannot be denied in this case.

12 And let me just take one example involving Defendant
13 Richard Spencer, who is sitting right over here. This is what
14 he said when he thought no one recording him on the night of
15 August 12th, after the torch march, after the threats, after
16 the beatings, after the mace, after the shields, after the
17 flagpoles, after all the violence and the car attack that
18 killed Heather Heyer and injured so many other people. This is
19 what he had to say.

20 (Video playing.)

21 Ladies and gentlemen, we are going to ask you to hold
22 them accountable on behalf of these plaintiffs.

23 THE COURT: Ms. Kaplan, how long do you anticipate
24 you'll be?

25 MS. KAPLAN: I speak way too fast, Your Honor, but I

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1 assume about a half an hour.

2 THE COURT: Members of the jury, can you sit another
3 half an hour? Then we'll go to lunch.

4 MS. KAPLAN: Ladies and gentlemen of the jury, you
5 have just heard Karen tell you about what the defendants did on
6 August 11th and 12th, 2017. I'm now going to tell you about
7 what the plaintiffs were doing that same weekend.

8 The conspiracy to commit racially motivated violence
9 at issue in this case did not happen in a vacuum. It
10 devastated the lives of many, many people, including our
11 plaintiffs. As Karen mentioned, they are all sitting right
12 here in the courtroom today. And I'm going to name them:
13 Marcus Martin, Marissa Blair, Elizabeth Sines, Thomas Baker,
14 April Muñiz, Chelsea Alvarado, Devin Willis, Natalie Romero,
15 and the Reverend Seth Wispelwey.

16 These are the nine brave plaintiffs who we have the
17 great privilege to represent. I'm going to describe them to
18 you now based on the timeline of what happened and based on
19 their connection to the key events.

20 Natalie Romero and Devin Willis were about to start
21 their sophomore year at the University of Virginia when the
22 defendants came to town on August 11. Devin was then 18 years
23 old, and Natalie was 20.

24 Natalie attended UVA on an academic merit-based
25 scholarship awarded to individuals with extraordinary

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1 leadership potential. She was the very first person in her
2 family ever to go to college. Before she started at UVA, she
3 was a member of the Army Reserve Officer Training Corps, or
4 ROTC. She had been awarded the Legion of Valor award, an honor
5 awarded to only seven cadets in the whole country. In her
6 freshman year at UVA, she did well academically. She was
7 selected to lead -- and was selected to lead a peer mentoring
8 program. Ten days before the Unite the Right rally, she got
9 married.

10 Devin Willis also received scholarships to attend
11 UVA. He quickly emerged as a leader on campus. His freshman
12 year, he worked as a university tour guide and was involved in
13 a number of student groups, including the Black Student
14 Alliance, a group dedicated to supporting students from diverse
15 backgrounds. The summer after his freshman year, Devin stayed
16 in Charlottesville while working at an internship at UVA about
17 environmental conservation.

18 On August 11th, Natalie and Devin were at a spaghetti
19 dinner at the home of one of their professors when they learned
20 that white nationalists were planning to march through campus
21 that evening. Natalie and Devin drove to campus in a car with
22 a bunch of their friends who had attended the dinner. Their
23 plan was to counter hate and stand up for their own school and
24 their own community.

25 Since they had heard that the white nationalists were

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1 focusing on the Thomas Jefferson statue, that's where they
2 went. They walked over to the statue and joined a group of
3 other students holding a sign that said, "VA students against
4 white supremacy."

5 At first, when they got there, the white nationalists
6 had not yet arrived, and so they and the other students were
7 standing there alone. Natalie and Devin, who had been assigned
8 to be each other's buddy for the evening as a safety
9 precaution, held hands, and, with the other students, began to
10 chant: "No Nazis, no KKK, no fascist USA."

11 (Video playing.)

12 That's Devin in the pink and white shirt, and that's
13 Natalie holding his hand.

14 Soon, after a while holding hands at the statue,
15 Devin and Natalie heard voices growing louder and louder and
16 louder from the other side of the Rotunda on the map that Karen
17 showed you. As the voices grew louder, the sky around the
18 Rotunda literally began to glow from the flames of tiki
19 torches. That's when Natalie and Devin saw approximately 300
20 to 500 men, many of them wearing white polos and khaki pants,
21 holding lit tiki torches, approaching.

22 And if you look here, you can see Devin -- Natalie,
23 it's hard to see -- and the other students around the statue.
24 And you can see in this video, as we're going to show, how they
25 were quickly surrounded.

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1 As you can see, they have their backs to the Thomas
2 Jefferson statue, and their heads are down.

3 Within a matter of minutes, the scene looked like
4 this. Again, you can see Natalie and Devin -- better, Devin --
5 around the statue. Natalie and Devin at this point are trapped
6 against the Thomas Jefferson statue. They were among a very
7 small group of UVA students of color there, face-to-face with a
8 crowd of torch-bearing men who screamed at them, made monkey
9 sounds at them because of their skin color, and told them to go
10 back to where they had come from.

11 Natalie and Devin are each going to testify soon in
12 this case, and they will each tell you that at that moment they
13 were completely terrified. Devin will testify that he
14 literally believed that he was going to die. Their fears were
15 justified, since soon, the men physically attacked them. The
16 men with tiki torches threw lighter fluid and lit torches at
17 the students. Natalie and Devin were doused with pepper spray.
18 Devin was kicked and punched repeatedly. They each remain
19 haunted by what happened to them that night.

20 As Karen told you, after the defendants terrorized
21 Natalie and Devin, they celebrated. The photos I just showed
22 you depicted what Jason Kessler called "an incredible moment
23 for white people."

24 Next up is Reverend Seth Wispelwey, who grew up in
25 Charlottesville. He's a hometown boy, and at the time was a

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1 local minister and a peace activist. He had arranged for an
2 interfaith service to take place at St. Paul's Memorial Church
3 on the evening of August 11th, before the planned rally the
4 next day. St. Paul's, of course, is just across University
5 Avenue from the Thomas Jefferson statue, just shouting distance
6 away from where we last saw Devin and Natalie.

7 On August 11, Reverend Wispelwey was leading a
8 service at St. Paul's Church with other faith leaders who had
9 gathered in Charlottesville from all over the country. They
10 had come together to support each other and their community,
11 understanding that the next morning their town could well be
12 full of white nationalists. They wanted to celebrate love and
13 peace in the face of the defendants' hate and calls for
14 violence.

15 Seth was there with his 7-year-old daughter you can
16 see in the photo on the right. From inside the church, Seth
17 and the other congregants heard the other white supremacists
18 chanting "Jews will not replace us" as they marched across
19 campus.

20 Now, I know you have all heard the old adage, "A
21 picture is worth a thousand words." Take a look for yourself
22 at the expressions on the faces of the people in the church
23 that night. You can see for yourself how worried, how scared,
24 how terrified they were as they heard the chanting outside.
25 Seth barricaded the doors to the church to keep the people safe

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1 and they sheltered in place, waiting and praying for the white
2 supremacists to leave.

3 I want to turn now to Elizabeth Sines, who at the
4 time was a law student at UVA. Liz grew up in Garrett County
5 in western Maryland, which is in the Allegheny Mountains. Her
6 father was a police officer and a veteran and her mom worked
7 for the state unemployment office. Liz chose to go to law
8 school at UVA because she loved the town of Charlottesville.

9 On the night of August 11th, Liz learned on Twitter
10 about the torch march that was already happening on campus.
11 She and a law school classmate were shocked, and they went to
12 the main lawn to see things for themselves.

13 Liz tried to record things she saw as best she could
14 to make sure that people in and outside of Charlottesville knew
15 what was happening on her campus that night. In order to do
16 so, Liz started recording a video on her iPhone as the white
17 nationalists marched past her.

18 (Video playing.)

19 Liz then walked to the top of the steps of the
20 Rotunda, as Karen showed you earlier, and looked down.

21 Remember, Devin and Natalie are among the students
22 encircling the Thomas Jefferson statue.

23 (Video playing.)

24 Although the video that she took on her iPhone is
25 dark, Liz will tell you here in this courtroom that she then

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1 watched the tiki torch-bearing crowd drag several students one
2 by one away from the base of the statue, punch them, push them
3 to the ground, kick them, and hit them with tiki torches.

4 (Video playing.)

5 In addition to Natalie, Devin, Seth, and Liz, you
6 will hear in this courtroom from two other witnesses who were
7 there at the Thomas Jefferson statue that night: Dean Allen
8 Groves, and another UVA student, Diane D'Costa. They too will
9 tell you what they saw with their own eyes and what they heard
10 themselves.

11 August 12, the next day, started out as more of the
12 same, but then became far, far worse.

13 Natalie and Devin had both planned to attend peaceful
14 counter-protests the next day, although they obviously each had
15 second thoughts after what happened on August 11. They decided
16 to go because they were determined to show solidarity with
17 their friends.

18 Devin began the day at McGuffey Park, about two
19 blocks away from Emancipation Park, where the defendants had
20 planned to meet. Counter-protesters met there, played music,
21 made speeches, and chanted things like "no justice, no peace,"
22 and "love, not hate."

23 Devin and others stopped a few hundred feet away from
24 the entrance to Emancipation Park. Karen told you -- you
25 probably heard her tell you and remember -- that a group of

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1 defendants gathered in the Market Street garage, walked down
2 Market Street to Emancipation Park, and violently broke through
3 a line of counter-protesters standing in the street.

4 Devin was in that line.

5 For the second time in less than 24 hours, Devin was
6 assaulted again by a group of white nationalists, who kicked
7 him, punched him, and pepper-sprayed him directly in the face.

8 Natalie had gone to Emancipation Park separately.

9 When she got there, she saw crowds of white nationalists with
10 helmets, body armor, weapons, and she saw people with pictures
11 of Adolf Hitler on their T-shirts. While Natalie was at the
12 park, she was approach by a group of white men who spat in her
13 face and told her to go back to her country. Then those same
14 men charged through her group, and Natalie was thrown on the
15 hood of a car. Tragically, that was not the only physical
16 contact that Natalie had with a car that day.

17 Seth Wispelwey, who we saw last night at St. Paul's
18 Church, also planned to peacefully counter-protest on
19 August 12th, as he had promised his interfaith community he
20 would. He got up early that morning to lead the community in
21 prayer at a sunrise service in downtown Charlottesville. He
22 gathered with dozens of other clergy members and people of
23 faith to stand up for justice and against white supremacy.

24 Reverend Wispelwey formed a line and linked arms like
25 this with other clergy members as they kneeled and prayed

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1 together in protest. But then they, too, were attacked. White
2 supremacists shoved Seth and the other clergy while spitting at
3 them and screaming: "Kill the faggot priests."

4 But, as it turns out, the violence that Natalie and
5 Devin and Seth experienced on the morning of August 12th was
6 just the tip of the iceberg.

7 Chelsea Alvarado and April Muñiz each came to
8 downtown Charlottesville on August 12th to peacefully protest
9 as well.

10 Chelsea -- you can go to the next slide -- had
11 recently graduated from Sweet Briar College. She was living in
12 Richmond, and she was working as a crisis counselor with people
13 suffering from trauma and mental illness and struggling with
14 homelessness.

15 On the morning of August 12th, Chelsea met up with
16 Natalie and walked to Emancipation Park. Chelsea had a large
17 blue drum that she wore across her body that she wore to play
18 along with the songs and chants during the counter-protests.
19 You can see the blue drum in that photo.

20 At approximately 1:41 in the afternoon, Natalie and
21 the other counter-protesters, including April, headed toward
22 Water Street.

23 April had lived in the Charlottesville area for more
24 than 30 years. In August 2017, she was working full-time as a
25 manager at a research firm. She's a former Peace Corps

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1 volunteer who loves to take photographs.

2 April went into town on August 12th to document what was
3 happening in her community. She parked her car and walked over
4 to the Downtown Mall. At around 1:41 in the afternoon, she
5 joined up with a crowd heading toward Water Street and she
6 decided to follow them. That crowd was celebrating because
7 they mistakenly assumed that the white nationalists were on
8 their way out of town.

9 Marcus Martin and Marissa Blair were both born and
10 raised in Virginia. Marcus is from Shipman and Marissa is from
11 Amherst. They grew up near each other and they began dating in
12 2016. On August 12th, 2017, Marissa was working as a paralegal
13 at a law firm here in town. Heather Heyer also worked at that
14 same law firm and they had become close friends. At the time,
15 Marcus was working as a landscaper.

16 Marcus and Marissa had been invited by Heather to
17 join the counter-protest on August 12th. Marcus and Marissa
18 met Heather at a McDonald's parking lot near Fourth and Water
19 Streets. In the early afternoon, Marcus, Marissa, Heather and
20 their friends were on Water Street. They too believed the
21 white supremacists were on their way out of town and they felt
22 an overwhelming sense of relief.

23 (Video playing.)

24 Marissa and Marcus began walking with the crowd up
25 Fourth Street. The time, again, was 1:41 in the afternoon.

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1 The woman walking right in front of Marissa who you can see
2 with the black T-shirt and the braid swishing from side to side
3 was their friend, Heather Heyer.

4 Thomas Baker works in conservation and ecological
5 planning, and at the time of August 12th he had just moved to
6 Charlottesville with his wife several months earlier. At that
7 time he was working as a horticulturist at a local nursery. On
8 August 12th, Thomas felt compelled to go downtown to support
9 his new community. When he got there he walked around for a
10 while until he joined a group of people walking up Water
11 Street. He noticed the crowd's positive energy and followed
12 them as they turned left on Fourth Street. He ended up right
13 next to Marcus and Marissa. Again, it was approximately 1:41
14 p.m. in the afternoon.

15 Meanwhile, Liz Sines had had a morning meeting with
16 career services at UVA law school, but she decided to go join
17 the protesters after the meeting was over. Shortly before 1:41
18 p.m, she too joined the crowd walking along Water Street.

19 You've heard me say 1:41 p.m. a lot, and that is
20 because at 1:41 p.m. on August 12th, 2017, Defendant James
21 Fields paused for a moment in a gray 2010 Dodge Challenger at
22 the top of Fourth Street. He then stepped on the gas, just
23 like the tweet that Karen showed you from Matthew Heimbach, and
24 he plowed directly into the crowd of counter-protesters that
25 had converged at Fourth and Water Streets in front of him. By

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1 the grace of God he barely missed April, Liz and Marissa.
2 Natalie, Marcus, Chelsea and Thomas were not as lucky. They
3 were all hit by his car. Natalie was struck by the Dodge
4 Challenger with such force that she flipped through the air and
5 landed on the ground. Someone pulled Natalie to safety on the
6 sidewalk and out of the path of Fields' car just before he
7 reversed it in order to run into the counter-protesters again.
8 This is Natalie minutes after the car attack.

9 Natalie lost consciousness at the scene and woke up
10 in the hospital in full traction. The first thing that she
11 asked the nurses was: Will I ever walk again? Her skull was
12 fractured and her face was lacerated. She sustained a
13 traumatic brain injury, which continues to affect her memory
14 and attention, among other things. And you will hear directly
15 from Natalie about this herself later today.

16 Natalie has regained the ability to walk, but not
17 without difficulty. When she was finally released from the
18 hospital, she had to use a wheelchair for over a month. Then
19 she walked with a cane for two more months. That whole time,
20 even in her home, she had to sleep in a hospital bed because
21 she couldn't get in and out of a regular bed herself. She
22 missed the next semester of school. For months she had to go
23 to seven doctors' appointments a week just to regain basic
24 functioning: Physical therapy, occupational therapy, treatment
25 for ringing in her ears, appointments with neurologists and

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1 more.

2 Natalie continues to live with scars on her face
3 that, as Karen has told you, remind her every single time that
4 she looks in a mirror of the absolute horror of what she
5 experienced that day.

6 Chelsea was playing that large blue drum that she was
7 wearing on her chest when James Fields hit her with his car.
8 She was thrown backwards onto the concrete curb. She barely
9 managed to maneuver out of the way as she saw Fields put his
10 car into reverse. Chelsea's body was covered with cuts and
11 bruises, and her knee immediately swelled up to three times its
12 normal size.

13 When the car hit the drum that Chelsea was wearing,
14 the drum slammed against Chelsea's side so that she had
15 abrasions and bruises and the outline of the drum strap against
16 her body. Chelsea also sustained a severe concussion and
17 continues to suffer from injuries to her brain. She continues
18 to struggle with severe anxiety, depression and other emotional
19 difficulties caused by what happened that day.

20 Here is -- here is Chelsea's drum next to a pool of
21 blood that was Natalie's blood on the street that day.

22 The man in the red and white sneakers with his body
23 in the air is Marcus Martin. Just before the impact, Marcus
24 had the wherewithal to push his fiancée Marissa out of the way
25 of the car. Fields hit Marcus with such force that Marcus's

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1 body, as you see in this Pulitzer Prize-winning photo, flew
2 into the air and over the car and then fell to the ground.
3 Marcus scrambled to get out of the way and prayed to God that
4 Marissa was okay.

5 Marcus's shoe was knocked off his left foot when he
6 was hit by Defendant Fields's car. Look at these photos.
7 Remember, a picture speaks a thousand words. Look at these
8 photos. As Fields reversed the car up the street, you can see
9 Marcus's shoe stuck in the front grille of the car and then
10 underneath it.

11 These are the shoes that Marcus was wearing that day.
12 They're a lot stronger than human body parts because they
13 actually look not too bruised.

14 Marissa couldn't find Marcus immediately after the
15 car attack. She understandably panicked, wandering desperately
16 through the crowd looking for him until she found him crumpled
17 on the sidewalk.

18 (Video playing.)

19 Marissa finally found Marcus on the ground, unable to
20 move. Marissa helped him stand up and get him into an
21 ambulance. Marcus's leg, which was completely crushed by the
22 car, was obviously horribly injured. His fibula was broken and
23 the ligaments were torn across his whole ankle and throughout
24 his leg.

25 At the hospital together, Marcus and Marissa learned

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1 for the very first time that their close friend, Heather Heyer,
2 had been killed. Marcus and Marissa have struggled to deal
3 with their pain and their injuries, both physical and
4 psychological, for the past four years. Marcus's physical
5 recovery has been brutal. For seven months he could barely
6 walk, which also meant he was unable to work. Marcus and
7 Marissa got married after August 12th. They struggled to
8 manage Marcus's physical care, and the pain and trauma he
9 experienced obviously put a heavy strain on their relationship.
10 Ultimately, the car attack cost them their marriage as well.

11 This is Thomas Baker. While standing on Fourth
12 Street on August 12th, a newcomer to town, Thomas first heard
13 screaming and loud thumps. Those thumps turned out to be the
14 sounds of other bodies getting hit by the car. The car struck
15 Thomas's legs and his body was thrown over the hood. His head
16 and upper body hit the windshield, causing him to flip over the
17 top of the car before he slammed to the ground.

18 This is what Thomas looked like in the hospital. He
19 tore a ligament in his left wrist, cartilage in his right hip,
20 severely damaged his femur and his hip socket, and of course
21 sustained a concussion. Thomas had cuts and bruises all over
22 his body, as you can see. For months afterwards Thomas was in
23 so much pain that it hurt even to lie down. He had difficulty
24 moving around and he struggled to meet the physical demands of
25 his job. He tried physical therapy and he tried rehab, but

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1 ultimately he had to undergo surgery to try to repair at least
2 some of the damage to his hip from August 12th.

3 Today Thomas walks with a limp and struggles with
4 chronic pain. He can't run or play sports anymore, and he has
5 been told that he'll need a hip replacement in the future.

6 In addition to the physical pain, Thomas obviously
7 has suffered emotional difficulties that have impacted him and
8 his relationships severely. And every single time that he sees
9 a car go by, even when it isn't even close to him, he struggles
10 with flashbacks from August 12th.

11 The near misses were also devastating. April and Liz
12 were each nearly hit by Fields's car. April walked with the
13 crowd and turned onto Fourth Street about a minute before the
14 car attack. She was walking up the right side of the street
15 when Fields came speeding down. She jumped out of the way, and
16 God willing, the car barely missed her. She then saw the car
17 backing up towards her and went into a state of complete shock.
18 She fled into a vestibule on Water Street. April remembers
19 weaving between people injured, lying on the ground and
20 bleeding. Eventually someone was able to bring her over to a
21 medic tech. April's work, her long-time relationship, and her
22 mental health have suffered tremendously as a result of what
23 she experienced on August 12th.

24 Liz Sines was also inches away from getting run over
25 by Fields's car. You can see Liz in the red circle on that

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1 photo. Here's what she experienced in real time that day.

2 (Video playing.)

3 As you can see in that video and as you'll hear from
4 Liz herself in this courtroom, she struggled to record that
5 video, but she wanted to make sure that people both in and
6 outside of Charlottesville saw the truth of what had happened
7 that day. And she is here today in this courtroom for that
8 very same reason.

9 Since August 12th, Liz has had anxiety, panic
10 attacks, insomnia, nightmares and difficulty focusing. The
11 trauma she experienced that weekend still impacts her both
12 personally and professionally.

13 Although Devin and Seth weren't hit by the car, the
14 emotional impact of August 11 and 12 continues for them as
15 well. When they heard the news about the car attack, they each
16 rushed to Fourth and Water Street. What they saw there was
17 utter devastation, destruction and chaos, blood and bodies
18 everywhere, people covered in glass, medics administering CPR
19 and other life-saving treatments.

20 Seth helped clear the area for the medics and
21 provided support and assistance to those at the scene. Devin
22 went looking for Natalie, but she had already been taken to the
23 hospital. The next day Devin went to the hospital to see her,
24 where she was still in traction and unconscious. Devin was
25 afraid that she was going to die.

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1 It will be very difficult, ladies and gentlemen of
2 the jury, for the plaintiffs to recount for you what happened,
3 but you're going to hear them tell you about some of the very
4 worst moments in their lives. When you do, remember what Karen
5 told you, that the defendants planned for violence, executed
6 violence, and then celebrated the violence, as she showed you
7 in those tweets and Discord posts from earlier today.

8 And think to yourself about who the plaintiffs are
9 and what they said. Were plaintiffs really associated with
10 violent members of Antifa, as I'm sure you will hear from at
11 least certain of the defendants? Or were they peaceful
12 protesters bravely committed to standing up for peace who were
13 terrified by what was happening and who were horribly injured
14 as a result?

15 Our plaintiffs have waited four long years for this
16 day. In that time they've tried to move forward with their
17 lives as best they can. Some have graduated from college.
18 Some have moved away. Some have started new relationships.
19 Some have gotten new jobs. But no matter what they do and no
20 matter how far away from Charlottesville they go, they continue
21 to carry with them the pain and trauma of what they experienced
22 those two days.

23 That's why you are here, so that this community, a
24 jury of their peers, can finally hear the truth about what
25 happened on August 11 and 12, 2017. As Karen said, while this

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1 case is about violence and hatred, it is also about justice and
2 accountability; accountability for those who planned and
3 perpetrated and celebrated the violence, and justice for the
4 plaintiffs who have lost so much.

5 The evidence you will see in this courtroom over the
6 next few weeks will be overwhelming. By the end of the trial
7 it will be clear that the defendants conspired to commit
8 racially motivated violence and devastated the lives of our
9 clients. Thank you very much.

10 THE COURT: All right. Thank you. At this point
11 we're going to recess for lunch for one hour. Operating on
12 that clock, at 12:15, we'll resume at 1:15.

13 And at this point, ladies and gentlemen of the jury,
14 I have to remind you, do not discuss the case with anyone at
15 lunch, even amongst yourselves. Of course do not do any
16 research, do not remain within hearing of anyone discussing the
17 case. I'm going to allow you to file out now to return at
18 1:15. Just follow the marshal.

19 **(Jury out, 12:13 p.m.)**

20 THE COURT: Okay. I'll ask the plaintiffs to remain
21 and defendants may proceed.

22 All right. The plaintiffs may proceed. Thank you.

23 MS. DUNN: Thank you, Your Honor.

24 MS. KAPLAN: Thank you, Your Honor.

25 (Recess.)

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1 THE COURT: Call the jury.

2 **(Jury in, 1:28 p.m.)**

3 THE COURT: All right. Be seated, please.

4 Members of the jury, sorry that we're late calling
5 you back.

6 All right. Counsel for the defendants may begin.

7 Mr. Kolenich?

8 MR. KOLENICH: Thank you, Your Honor.

9 Good afternoon. As you remember, I represent Jason
10 Kessler, Nathan Damigo, and his organization, Identity Evropa.

11 This case, ladies and gentlemen, is a conspiracy
12 case. The plaintiffs want you to believe and find that anybody
13 who had anything to do with the Unite the Right leadership
14 conspired to damage them in some way or other.

15 Now, at no time in this case will you hear Jason
16 Kessler or Nathan Damigo or his organization deny that these
17 plaintiffs have been injured; in many cases, very badly
18 physically injured. Some of the other lawyers have a job to do
19 and they have to look into those injuries, but my clients are
20 not going to do that.

21 Moreover, my clients are not responsible for how
22 these other defendants choose to put in their case. They will
23 put in their own case through their attorneys. And that bears
24 a great similarity to the fact that they are not responsible
25 for what other leaders of Unite the Right chose to do on

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1 August 11th and 12th, 2017.

2 You heard it from the plaintiffs' own mouth:

3 "Antifa. Antifa." Now, why would they bring that up? Because
4 these Antifa, these anti-fascists, are a big part of this case.
5 Why is Antifa a big part of this case? Because they don't like
6 Jason Kessler. They don't like his message. They don't like
7 what they call fascists or Nazis.

8 Very well. Nobody likes fascists or Nazis. If you
9 haven't learned not to like my clients before you came in here
10 today for this case, you're going to learn throughout this
11 trial that the rhetoric they use, the positions they advocate,
12 are not likable things. And in many cases, the people involved
13 in this are not likable people. But that, ladies and
14 gentlemen, is 100 percent legally irrelevant. Better lawyers
15 than I will ever be have stood before juries and pointed out --
16 and judges -- and pointed out that, if the First Amendment does
17 not protect the most reprehensible, the most disgusting, of
18 speech, then it doesn't protect anything.

19 Now, at no time in this case are Kessler and Damigo
20 or his organization going to tell you that the First Amendment
21 protects a conspiracy to commit a crime or a conspiracy to do
22 violence. That is not our argument. But you heard the
23 plaintiffs say this event had been planned for months. But
24 what was being planned?

25 The evidence in this case will show that, in the mind

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1 of Kessler, in the mind of Damigo, and the official acts of
2 their organization, the authorized acts of that corporation,
3 they were planning a political rally.

4 Yes, they planned for the possibility of violence.
5 There is no getting around that. There will be no denials of
6 that from my clients. But what violence were they planning?
7 They were planning for the possibility that the Antifa would
8 physically attack them on August 11th and 12th, 2017, as had
9 happened before. You will learn in this case that the
10 anti-fascists go wherever the alt-right goes and they do what
11 they can to physically stop them from expressing their
12 reprehensible ideas, and they are not afraid to use violence to
13 do that.

14 The plaintiffs showed you a picture of Nathan Damigo,
15 my client, punching a female in the face. Now, at opening
16 argument, we can't do anything with that. That's the way
17 opening is. During the trial, we can show you the rest of the
18 story. When you see an exhibit, when you see a piece of a
19 deposition, any sort of demonstrative evidence, think: What is
20 the rest of the story? That is our job, to show it to you.

21 In Mr. Damigo's case, the evidence will show that
22 that female was physically attacking protesters with a broken
23 glass bottle, and he acted to defend those people. And in
24 point of fact, in point of fact, in Berkeley, California, which
25 may well be the most liberal, anti-alt-right place in the

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1 country, he was not charged with a crime for doing that, even
2 though the whole world knows he did it.

3 Moving on, ladies and gentlemen, this case is about
4 rhetoric. That's all it is about from my clients' perspective.
5 It is about the First Amendment right to say whatever you want
6 and to hold whatever opinions you want.

7 It is very true that you cannot do whatever you want.
8 Now, these people said -- they hold opinions, and they express
9 those opinions, of utterly ridiculous things. And you're going
10 to hear these things repeatedly throughout the trial. They did
11 say them. They did advocate for them. But that is all my
12 clients did.

13 Okay. You say: No, no, no. No, I remember the
14 plaintiffs' presentation. I remember the texts. I remember
15 the tweets. Mr. Kessler spoke with -- Mr. Kessler spoke with
16 Mr. Spencer, or Mr. Damigo spoke with someone. But what were
17 they doing? Why were they speaking to him? What were they
18 trying to accomplish? They were trying to put together an
19 alt-right rally that could not be beaten down by these Antifa.

20 Jason Kessler, ladies and gentlemen, was scared. He
21 was afraid of his event being ruined, but also of his own
22 person being assaulted. He did the best he could, within the
23 limits of his abilities as Jason Kessler, to stop that from
24 happening. He worked with the police, the Charlottesville
25 police, to protect this event. He got a permit. He did not

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1 sneak into Charlottesville with a bunch of knuckleheads from
2 out of town and tear up the town. He got a permit. He begged
3 the police to protect his event. You all know the story. This
4 was not the Charlottesville police's finest day. And in the
5 immediate aftermath of this event, the evidence will show, the
6 community thought so, too. The community blames the police for
7 what happened.

8 Yes, they blame Kessler. Yes, they hate Kessler.
9 And yes, in some moral sense, Kessler has some responsibility.
10 But bringing the Nazis to town and all the damage that happened
11 in the wake of that was not foreseeable to Mr. Kessler. He
12 could not have known that this out-of-towner that he never met
13 was going to run into a crowd of people.

14 Nathan Damigo could not have known that anybody was
15 going to use a car and attack somebody.

16 And when you pay attention to the planning that was
17 made of this event, they aren't talking about a car or a gun or
18 a grenade or a bomb or anything that you would know would kill
19 somebody and was made for the purpose of killing somebody.
20 They're talking about signs. You saw the plaintiffs' exhibits.
21 Picket signs and other such accoutrements of a rally.

22 Yes, they brought mace. Many people carry mace to
23 protect themselves from physical assault. Yes, it turns out
24 carrying mace is illegal in the state of Virginia, at least the
25 kind of mace they were carrying. But these kind of

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1 technicalities are not the plaintiffs' case.

2 The plaintiffs must prove to you that my clients
3 intended to hunt down and physically injure some persons who
4 were counter-protesting in Charlottesville, or at least were in
5 Charlottesville.

6 Now, at no time are you going to hear my clients
7 claim these plaintiffs are Antifa. That is not part of our
8 defense. What they are are innocent victims that were caught
9 in between Antifa and the alt-right, and the tragedy occurred.
10 You're going to hear an awful lot about their injuries. As I
11 said, we're not going to attack the source of their injury,
12 which is the car, or the validity of their injuries, which is
13 medical evidence that you will see.

14 Our case is entirely this: Rhetoric, language, is
15 protected.

16 Now, you heard the Court's instruction to you this
17 morning: A conspiracy is an agreement. You have to have made
18 some agreement with other members of the conspiracy to do the
19 general thing that was done.

20 Now, if you agree to yell at people and annoy them
21 and insult them and offend them, how is that an agreement to
22 run them over with a car? Or if you agree to spit in their
23 face, how is that an agreement to kill somebody? There is a
24 giant chasm between anything that you could possibly find
25 Kessler or Damigo or his organization agreed to and what

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1 actually happened that day, and what actually injured these
2 plaintiffs.

3 There is more to the defense than that for the
4 organizational defendants. There are technical legal defenses
5 that we will lay out the factual predicate for throughout the
6 trial as far as the group Identity Evropa.

7 I thank you for listening. When we come to closing
8 arguments, you will find that there is a very notable lack of
9 evidence of an agreement between Kessler or Damigo and any of
10 the people who actually are responsible for the violence of
11 August 11th and 12th, 2017.

12 Thank you, ladies and gentlemen.

13 MR. SPENCER: Good afternoon.

14 Anyone need only say the words "Charlottesville
15 rally," or "Unite the Right," or maybe even "August 2017," or
16 just "Charlottesville," in order to evoke very strong emotions,
17 and, in fact, quite a bit of pain, disappointment, anger, and
18 regret on all sides of the issue. And that includes myself.

19 I have certain regrets about being involved in the
20 rally. I have learned certain lessons. But we are now here,
21 four years after the event, and emotions have subsided, and we
22 are in a position to revisit the matter, look on it with
23 clearer eyes, and apply the law accurately and fairly.

24 The purpose of an opening statement is to tell you
25 what this case is all about. And I think I should -- before I

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1 do that, I think I should tell you what it is not about.

2 The Charlottesville rally raises many important
3 questions for all of us, about statues of Confederate generals,
4 about the Civil War and how we remember it, about highly
5 controversial, sometimes stupid and disgusting, speech, and how
6 dissidents should be treated. It has raised very important
7 issues about policing and the right of protesters and
8 counter-protesters and the duties of authorities to remain --
9 to maintain a safe, but also free, society.

10 These subjects should be debated by us. They should
11 be talked about by journalists, academics. They should be
12 talked about by each and every one of you, whether it's in your
13 local paper or at your local coffee shop or on social media.
14 These are important things.

15 But this case and this process is not about Robert E.
16 Lee. It is not about the Civil War. It is not about my
17 extremely controversial, though sincerely held, beliefs, which
18 I imagine most of you disagree with, and maybe vehemently
19 disagree with. This case ultimately is not about the
20 scattered, often stupid ramblings and insults of the alt-right.
21 This case isn't about Donald Trump. And this case isn't even
22 about who is ultimately responsible for the chaos and violence
23 that occurred across Charlottesville.

24 Sometimes in life there are things that are black and
25 white. That very important question, which should be debated,

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1 is quite gray.

2 We should remember that the Charlottesville rally,
3 Unite the Right, that I agreed to attend and speak at, at the
4 invitation of Jason Kessler, was preempted before anything had
5 been done or a word had been said. A state of emergency was
6 declared before a single person took the stage or said a single
7 thing. What was then called Lee Park and is now Emancipation
8 Park was evacuated by the police. I was forcibly pushed out of
9 the park and maced by the police.

10 Both sides -- or I probably should say "all sides" of
11 this rally, because there are more than two -- were funneled
12 together onto Market Street, almost as if creating chaos was
13 the objective. And that chaos descended into downtown
14 Charlottesville, where it reigned, and many people suffered and
15 were injured.

16 That -- those actions that led to that event are
17 actually not what this case is about. Before I talk about
18 that, I'm going to talk a little bit about what this case might
19 mean to you.

20 Your deciding one way or the other, for the
21 plaintiffs or the defendants, or perhaps a complicated
22 combination of those two, says nothing -- absolutely nothing --
23 about what you sincerely believe. I doubt the plaintiffs will
24 say this explicitly, but it's more or less implied, that you
25 are either on the side of the angels or you're on the side of

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1 the devil incarnate, bad old Richard Spencer and the Nazis.

2 No. Your decision is about the rational and fair
3 application of law. Your sincerely held beliefs in your mind
4 and in your heart cannot be touched by this case, and they
5 cannot be affected by anyone. Those are yours. You are here
6 to make a rational application of the law, to apply the law
7 where it applies and nothing else.

8 Deciding on my behalf says absolutely nothing about
9 your feelings towards my sincerely held beliefs, towards my
10 failings of character. You can go out and bash me on Twitter
11 after this is all done; that's basically what I'm saying. And
12 you might.

13 But this case is really about something very
14 difficult in society. It's something that we attempt to do,
15 and I don't think is really attempted anywhere else in the
16 world, or the whole universe, and that is to defend the rights
17 of someone you vehemently disagree with, to defend the
18 indefensible, to treat someone who you might find despicable
19 with fairness, to give a bad guy a fair shake. That's hard.
20 And that is the challenge that you all -- that we all face in
21 this Court.

22 The plaintiffs are going to imply that this is an
23 up-down vote about what you believe. It is absolutely not.

24 So what is this case about? Well, the short answer
25 is that it is about whether I was involved in a malign

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1 conspiracy to commit, direct, or in some way inspire racial
2 violence and the denial of civil rights. In the plaintiffs'
3 view, the Charlottesville rally wasn't really about the statues
4 at all. It wasn't about all those things that the planners
5 worked on tirelessly for weeks and for months. All of that was
6 a ruse or bait. It was really about getting people together so
7 their civil rights could be violated or they could be harmed or
8 injured in some way.

9 Now, getting more specific, you have been told, and
10 you'll learn again, that this is about the application of
11 Sections 1985 and 1986, Count 1, 42 of the US Code: Whether I
12 myself, who was not involved in the logistical plannings of the
13 rally, and some of my co-defendants, who very much were, should
14 somehow be held accountable, somehow held liable, for injuries
15 that the plaintiffs sustained.

16 And I would second Mr. Kolenich in the sense that I
17 don't deny that they have been injured and that they have
18 suffered.

19 This isn't a criminal trial. So the critical issue
20 is not guilt beyond a reasonable doubt.

21 It should be noted that over the past four years
22 since August of 2017, I have not been charged with any crime,
23 by the police, by the FBI, related to this matter. I certainly
24 could have been detained and arrested on August 12th or the
25 night before in Charlottesville by the police. I wasn't. The

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1 police, or any other law enforcement agency, could have used
2 Section 1985 to try me criminally. They have not. I have not
3 been questioned by these authorities.

4 THE COURT: Mr. Spencer? Excuse me.

5 I have ruled that it's not relevant whether anyone
6 else was arrested in this case.

7 MR. SPENCER: Fair enough.

8 And thus, we are at a civil trial, at which the bar
9 is seemingly lower. It's a preponderance of the evidence and
10 not guilt beyond a reasonable doubt.

11 The essence of Section 1985 is to prevent a
12 conspiracy to deny civil rights. This is defined as two or
13 more persons who conspire for the purpose of depriving, either
14 directly or indirectly, any person or class of equal protection
15 under the law.

16 The plaintiffs are going to have to demonstrate that
17 to you. And tough talk by me, bold words, that is simply not
18 enough. We had to be aware that someone was going to commit
19 these acts, attempting to deny civil rights or attempting to
20 injure someone. We had to want to do that ourselves. We had
21 to want to engage in some kind of malign event for which a
22 rally was a mere ruse.

23 They will present many things that are shocking,
24 saddening -- no question -- sometimes embarrassing. But they
25 won't present anything that demonstrates that I entered into a

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1 conspiracy to commit civil -- to violate civil rights or commit
2 violence. And that is what it is all about.

3 A conspiracy in itself is not malign. We all
4 conspire to go to the movies or start a small business; or, in
5 this case, we can conspire to host a rally of a highly
6 controversial nature on a political event of the day to be held
7 in Charlottesville. And I certainly was involved in that. But
8 for the plaintiffs' case to hold water, they need to show some
9 kind of concerted impulse, if not outright directives, for
10 violence in the denial of civil rights. Tough talk, bold
11 words, claims like "we're going to build an army for free
12 speech and crack some skulls if we have to," as Mr. Kessler
13 said, that is not nearly enough. That's tough talk. That's
14 childish -- maybe childish stuff. That does not indicate
15 anything like a concerted plan to attack people.

16 Another strategy of the plaintiffs is to lump us all
17 together. Thus, I'm responsible for what he said; he's
18 responsible for what I said. After all, they're all in on it;
19 they're all in cahoots.

20 There are 23 defendants in the plaintiffs' amended
21 complaint. Over the relevant period, I had no correspondence
22 whatsoever with 14 of them. That's 60 percent of the people
23 that they claim I was in cahoots with. The sporadic
24 communication I had with other defendants never involved
25 logistical planning of the rally. I was an invited guest. And

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1 it never involved the denial of civil rights nor an attempt to
2 injure someone. This assertion -- and it is an assertion that
3 is not grounded in evidence outside of tough talk -- that I was
4 involved in a 24-person conspiracy for violence and mayhem is
5 thus dubious from the outset.

6 Jason Kessler had become an acquaintance of mine
7 since late 2016. He was not a friend. Over the course of the
8 year of 2017, Mr. Kessler and I shared some 26 instances of
9 direct communication via iMessages. We participated in seven
10 phone calls totaling 27 minutes. I imagine you probably talked
11 a lot more with your car mechanic than Jason and I ever
12 discussed this malign conspiracy.

13 Christopher Cantwell, also an acquaintance, not a
14 friend. We shared a few text messages, seven instances in
15 total, one phone call. We ate lunch one time.

16 Nathan Damigo and Eli Mosley were, you could fairly
17 say, friends of mine at the time. There was plenty of
18 communication, which I have -- I participated in this process,
19 I delivered to the plaintiffs in the discovery process. Very
20 little of it was about logistics. Very little of it was about
21 Charlottesville, in fact. None of it involved inspiring
22 violence or violating civil rights.

23 Matthew Heimbach, one message, one brief phone call.

24 Michael Hill, Michael Tubbs and the League of the
25 South, no communication.

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1 Jeff "Scoop" or Schoep is a man I only became aware
2 of due to this trial. Needless to say, we never communicated
3 and I didn't know of his existence.

4 The National Socialist Movement, the Nationalist
5 Front, I knew nothing about. Nada. The Fraternal Order of the
6 Alt-Knights, nothing.

7 You can't build a 24 -- or 23-entity conspiracy on
8 this.

9 Defendant Jason Kessler was the chief organizer of
10 the Unite the Right rally. And he is a critical figure in
11 determining whether any kind of malevolent conspiracy existed
12 at all or if I were a party to it. Mr. Kessler aspired to be a
13 spokesman or leader for the alt-right movement. And during the
14 summer of 2017 organizing this rally was his full-time job.

15 The initial advertisement for Unite the Right, which
16 was shown to me in mid June of 2017, did not include me as a
17 speaker. I agreed to speak on June 16th after the permit for
18 an above-board legal rally had been filed and after Mr. Kessler
19 informed me of the, in his words, full cooperation of the
20 police.

21 I also expressed some wariness about participating in
22 the rally. I had become -- by that time I had become a
23 notorious figure. I knew that if I were there, Antifa would
24 want to come. Antifa had attacked me physically on multiple
25 occasions and I was a bit wary of that, though I did agree.

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1 And I was excited about it. I was excited to go to a rally
2 that was clearly getting interest from the whole alt-right
3 movement. I was excited to speak before everyone, excited to
4 feel like a star, excited to say something powerful and bold,
5 excited to participate in the whole process.

6 I had been doing that over the course of 2016 and
7 2017. I had spoken at multiple college campuses. In fact, the
8 Texas A&M event was larger than Charlottesville, had a larger
9 counter-protest. We took up -- or went to a football stadium.
10 I had spoken at other colleges. We had hosted a free speech
11 rally in Washington, DC.

12 Yes, Antifa would sometimes show up. Yes, harsh
13 words were said. You could certainly find instances of pushing
14 and shoving. But nothing like Charlottesville occurred in all
15 of those instances.

16 What was unique about this one? Certainly not my
17 involvement. Certainly not the involvement of some of the
18 co-defendants who attended those things. What was unique about
19 the Charlottesville event was the policing strategy of the
20 municipality and in fact the state. In all of those other
21 instances I said bold things, I pissed some people off, you
22 could say. But the police protected speech and they protected
23 order. And for such a controversial speaker in such a
24 hyper-polarized time, it was remarkable the degree to which
25 those events were, in fact, safe.

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1 What was different about Charlottesville was not my
2 participation or the participation of some of the
3 co-defendants. What was different was the policing and
4 security strategy. That is what directly led to the chaos
5 first on Market Street, which then flowed into downtown
6 Charlottesville. That strategy of the police is what is
7 ultimately responsible for the suffering and injury of the
8 plaintiffs, for which I have a great deal of empathy, and for
9 which I too am saddened.

10 That is absolutely not what I wanted. I did not
11 suffer in the way that they did, but I was physically harmed in
12 Charlottesville. I have been attacked regularly in broad
13 daylight, beginning in that year, 2017.

14 The plaintiffs played one clip from a podcast in
15 which I said that we are now living in an age of political
16 violence. I meant that. And that was true.

17 That's a now-notorious image of me being punched in
18 the head by a member of Antifa while I was speaking to the
19 press. It became a meme on social media. And it was actually
20 the subject of a sort of public debate. This is an article in
21 the *New York Times* in which this idea of: Should we feel bad
22 if a Nazi gets punched or, wink-wink, should we punch them
23 ourselves. This was hotly debated among liberals and leftists
24 and Antifa and beyond.

25 When I said we're entering a realm of political

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1 violence, this is what I am referring to. Did I fear something
2 like that was going to occur at Charlottesville? Absolutely.
3 Now, I did not myself carry a shield. I did not carry a flag.
4 I did not carry anything resembling a weapon outside of a
5 pocket knife. But I understand why many who attended desired
6 to do so. I understand why many who attended thought, if we do
7 this thing, if we speak our mind, if we stand up for our
8 beliefs, they're going to come after us.

9 By June of 2017, Discord had become a very popular
10 discussion platform. It was very popular on the alt-right and
11 other places as well. It became a kind of central hub for
12 Unite the Right. It was the communication vehicle for
13 prospective attendees, and organizers used it for logistical
14 concerns. There was, in fact, a leadership channel on this
15 Discord server, as you will learn, with Mr. Kessler designated
16 as events coordinator.

17 This was it. This was the central hub. I did not
18 participate whatsoever in the Charlottesville 2.0 Discord
19 server, nor was I invited to. I wasn't invited to the
20 leadership channels. I wasn't invited to any channels. This
21 is made manifest by the Discord archive, which you will see.

22 I was absent during every designated leadership phone
23 call on Discord and planning sessions for both the torchlight
24 march on Friday and for the aborted Saturday rally. My role in
25 this event was, at least in terms of logistics, entirely

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1 dispensable. I was invited to speak. I brought my fame or
2 infamy, depending on your perspective. I certainly made sure
3 this event would be talked about in the *New York Times*, but I
4 played no role whatsoever in logistical planning of the rally
5 or any type of conspiracy to deny civil rights that potentially
6 might have occurred.

7 And so what we see with the plaintiffs' case against
8 me is an effort at lowering the bar. This doesn't have
9 anything to do with any criminal accusations or arrest, as we
10 already discussed. You can lower the bar. They will not show
11 you anything that could plausibly be interpreted as a directive
12 or order for violence or unlawful acts. Let's lower the bar.

13 Was Richard Spencer involved in logistical planning
14 of this event? Did he originate Unite the Right? No. Let's
15 lower the bar.

16 Did he intend to speak and in some ways inspire
17 outrage? Well, there we go. My attendance, my intention to
18 speak boldly, this is implied -- it is implied that this led to
19 chaos, that I am somehow liable for injury and suffering by my
20 mere presence at the event. Apparently through osmosis or
21 something my ideas were going to get out there and harm people.

22 That is not fair. That is not an accurate
23 application of the law. And to be honest, on some level that
24 is simply not serious.

25 This case -- and I agree with Mr. Kolenich on this --

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1 really is about speech. It's about shutting down the most
2 awful speech you could possibly imagine -- and I'm sure there
3 will be plenty of examples of that. It's also an attempt to
4 silence more idealistic and articulate speech, not just me at
5 my worst moments but me at my best moments, when I sincerely
6 talk to the world about what I believe in. This is an attempt
7 to use both of those things in order to claim that I am somehow
8 liable for injuries that I had nothing to do with.

9 The Supreme Court has been very clear about where
10 that type of thinking -- that is the logic that lies at the
11 heart of the plaintiffs' case -- leads. Justice Anthony
12 Kennedy said -- and he said this about speech that was
13 absolutely awful, in this case directed towards Asian
14 Americans -- "A law that can be directed against speech found
15 offensive to some portion of the public can be turned against
16 minority and dissenting views to the detriment of all. The
17 First Amendment does not entrust that power to the government's
18 benevolence. Instead, our reliance must be on the substantial
19 safeguards of a free and open discussion in a democratic
20 society."

21 Members of the jury, you are those safeguards. This
22 kind of logic can be used in all sorts of ways. It might very
23 well right now be used against people you don't like and you
24 wouldn't like to associate with. You might like to tell us to
25 shut up, which is of course your right. That same logic can be

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1 applied to all sorts of speech that is unpopular. Over the
2 summer of 2020, many people sincerely took part in BLM -- Black
3 Lives Matter, that is -- protests. Many of those eventuated in
4 vandalism, looting, violence, you'd probably call some of those
5 things riots.

6 THE COURT: Mr. Spencer, I'm going to have to ask you
7 to try to stick to the facts of this case and not argue the
8 case at this point. You can argue at the summation.

9 MR. SPENCER: Okay. Skip ahead.

10 The poet Robert Burns said that the best laid plans
11 of mice and men often go awry. When I look back on
12 Charlottesville, I feel absolutely that my best laid plans went
13 awry. I wanted to go and speak. I view Charlottesville,
14 though it might be a kind of moral victory, as I said, in the
15 sense that we fought back in an extremely difficult situation,
16 I do view it as a kind of disaster and learning experience.

17 In a recorded rant that I engaged in that was played
18 to you that occurred after the event, I was in a state of
19 absolute frustration. And I said things that are shameful and
20 embarrassing, and that I might never really live down. Those
21 are indicative of a man who felt that everything had gone awry
22 that day. Our plans for a rally, our plans to speak had been
23 spoiled. And we were left with chaos and violence and just a
24 bad feeling all around.

25 The plaintiffs claim that that was the whole purpose

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1 of the rally, that all of my plans had actually been fulfilled.
2 That was a great success. It absolutely wasn't. And my state
3 of mind of extreme frustration at that moment evinces a man who
4 felt that everything had gone wrong. The conspiracy to host a
5 controversial rally had been destroyed and I was immensely
6 angry and frustrated. That doesn't sound at all like a person
7 who planned for any of these things to take place.

8 Now, I'm going to talk briefly about the decision
9 that you need to make, and then I'm going to talk -- I'll
10 finish my remarks with the big picture.

11 I am here acting on my own behalf. I represent
12 myself. I remain agnostic about my co-defendants and their
13 status. You are tasked with something quite difficult, or you
14 might be; and that is to separate the defendants. Now, the
15 plaintiffs have tried to tie us all together in a kind of
16 string board of a conspiracy. As Judge Moon has said, you
17 might need to make fine distinctions. Deciding for the
18 plaintiffs on one matter need not imply that you decide for the
19 plaintiffs vis-à-vis me, and vice versa. You have to look at
20 my situation as it is and make a decision: Was there a
21 conspiracy, a malign conspiracy to deny civil rights at all?
22 If you decide there was, was Spencer a part of it? Could he
23 have possibly been a part of it?

24 I will show you one matter -- this will of course be
25 introduced later. The plaintiffs in a way want to have it both

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1 ways. They want to take things literally and figuratively.
2 When someone says something very harsh, they want you to take
3 that in the worst possible way possible. In Kessler's words,
4 an army for free speech. That must have been a real army to
5 attack people. When someone says something jokingly or in a
6 kind of sophomoric or teenage fashion, well, we need to take --
7 that's just a code for something else. That's all figurative.

8 This is what I tweeted, again, at the height of my
9 notoriety in August 2017 at 12:38, I believe p.m. This is
10 while I saw Charlottesville descend into chaos. This is before
11 the accident with the car and James Fields that led to death
12 and many of the injuries of the plaintiffs. I tweeted this
13 out. This was seen by 70,000 followers. I have no doubt that
14 it was seen by thousands more. "My recommendation: Disperse.
15 Get out of Charlottesville city limits. State of emergency has
16 been called."

17 Now, I guess the plaintiffs could call that plausible
18 deniability. I don't know how that possibly makes sense. I
19 was not in any kind of direct communication with James Fields
20 whatsoever or countless other people who engaged in violence.
21 I had no way to tell them, ah, this is all a sham. No. I was
22 saying what I meant and I meant what I said. Charlottesville
23 went wrong. The authorities had declared a state of emergency.
24 It is time to get out of Dodge. That is the only context in
25 which a tweet like that makes sense. Why would I do that

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1 otherwise? Why would I try to prevent more chaos and violence
2 and injury? Why would I do that if I were part of this malign
3 conspiracy against the plaintiffs? Why?

4 The fact is, I was not. I was disturbed by the chaos
5 that I saw unfold. I did not want anything like what happened
6 to have occurred, and I have been disturbed by it ever since.

7 Now, let me say one thing in closing on the big
8 picture. Yes, this is about Sections 1985 and 1986, but I
9 think it's actually about something much bigger. It's about
10 justice itself. Justice, that word, we use it every day, but
11 we don't dwell on it enough and think about it seriously
12 enough.

13 For the purpose of this exploration, I'm going to
14 talk about two concepts of justice. The first one we could
15 call rational or constitutional justice. That is the fair and
16 reasoned application of a law, a clearly expressed law, in a
17 place where it is appropriate. That is all of your challenge.
18 That's why you're here. That is what this process is about.

19 But there's another kind of justice. And I'm afraid
20 that type of justice is, in fact, much bolder than this
21 rational justice I just mentioned. And I'm afraid that it has
22 a much stronger hold on us as human beings. It is all too --

23 THE COURT: Mr. Spencer, I hate to interrupt you, but
24 you're arguing again. You'll have an opportunity --

25 MR. SPENCER: This is a big-picture --

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1 THE COURT: I know it's a big-picture thing, but this
2 is a case between these plaintiffs and these defendants. And
3 the plaintiffs -- we're not sending a message here. The
4 question is: Do the plaintiffs prove what they must prove to
5 hold the defendants liable. And I want the jury to understand
6 they're not here except to make that decision. And that's --
7 the evidence and the law is what should control the decision,
8 not the bigger picture.

9 MR. SPENCER: I agree with you. What I'm trying to
10 warn them is about not doing that. Could I finish that?

11 THE COURT: I'll warn them about that. You tell them
12 about your defense and that's what you're entitled to do, the
13 evidence you're going to put on in your defense. And you can
14 argue at the end of the case.

15 MR. SPENCER: Okay. That's fair enough.

16 Over the course of this trial you will see evidence
17 of how I was invited to participate in the Charlottesville
18 rally, how I was excited about this prospect that had gained
19 so -- generated so much excitement in the alt-right movement.
20 It was clearly going to be something big. You will not see
21 anything approaching a directive towards violence or the denial
22 of civil rights. You might, I'm sure, if the plaintiffs do
23 their job, see me at my worst moments, see me painted in such a
24 fashion you might very well dislike me intensely. But you will
25 not see anything resembling evidence that justifies the

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1 application of Sections 1985 and 1986.

2 I would urge you to resist any impulse to make this
3 about anything other than the law, to make this about
4 scapegoating or purging bad feelings. I would urge you to make
5 this about whether a directed, coordinated conspiracy actually
6 existed. Thank you very much.

7 THE COURT: All right. Thank you, Mr. Spencer.

8 Members of the jury, I don't like to interrupt the
9 lawyers during their statement, but I will remind everyone I
10 made rulings. I'm going to ask everyone to adhere to the
11 rulings I made.

12 There was mention that -- you may have a seat.

13 There was mention that no one was arrested, or that
14 Mr. Spencer was not arrested, or anyone else. That's totally,
15 totally irrelevant. Whether persons are arrested or not has
16 nothing to do with the civil case. Even if a person is brought
17 into court in a criminal case and convicted, that doesn't
18 necessarily decide the civil case. It's an entirely different
19 matter.

20 And I'd ask you to focus on what I will tell you the
21 plaintiffs have to prove in order for the defendants to be held
22 liable. And that's what you should be focusing on during the
23 case.

24 I'm told we need to take a break.

25 Take about 15 minutes.

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1 (Jury out, 2:26 p.m.)

2 (Recess.)

3 THE COURT: One of the jurors handed the marshal a
4 note that said: "Do we have to make a judgment for or against
5 each defendant individually?"

6 I think all of you have covered that. I guess I
7 could say so -- say it again. I'll give the note to the clerk.
8 It was Juror 275.

9 MS. DUNN: Your Honor, our concern is that it might
10 be somewhat suggestive if you say that after this opening
11 statement, and maybe Your Honor could fold it into some more
12 general instructions later.

13 THE COURT: I'll wait until the end. I think I told
14 them in the voir dire and it came up in the opening statement.
15 Mr. Kolenich mentioned it in his statement. But I'll wait
16 until the closing.

17 MS. DUNN: Thank you.

18 THE COURT: I'll wait until we're finished with the
19 opening statements.

20 All right. Who's next?

21 Mr. Smith, are you next?

22 MR. SMITH: I think it's actually Mr. Cantwell.

23 MR. CANTWELL: It's me, Judge. Mr. Cantwell.

24 THE COURT: Oh. Mr. Cantwell.

25 Well, remain until the jury -- call the jury.

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1 (Jury in, 2:45 p.m.)

2 THE COURT: Have a seat, please.

3 All right. Mr. Cantwell?

4 MR. CANTWELL: Thank you, Judge.

5 Check, check. Can everybody hear me okay?

6 Ladies and gentlemen, thank you all so much for being
7 here.

8 I'm not used to this stuff, and I was really nervous
9 about the jury selection thing, but I think that this went
10 pretty well. I'm reasonably happy with the outcome. I think
11 you all are reasonably smart people, or better, and I think
12 before we're done here you're going to realize that I'm not
13 just blowing smoke at yous.

14 The plaintiffs are going to tell you that we're a
15 bunch of mean racists who take some perverse joy in harming
16 people because we believe that, deep down, our political goals
17 will be served by chaos and violence. Now, if any of you have
18 ever had the intellectual curiosity to read *Mein Kampf*, or if
19 there's a conservative who is well enough informed to know the
20 difference between Marxism and National Socialism, you already
21 know that this is Mother Jones-level ideological nonsense.

22 We're talking about right-wingers here. This is the
23 Unite the Right rally. Mainstream Republicans may wish to
24 distance themselves from us on the subject of race, due in part
25 to meritless lawsuits like the one here.

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1 But make no mistake about it: This was a right-wing
2 event.

3 Right-wing ideology is characterized by a desire for
4 order, tradition, stability, and rules. The use of force is
5 prohibited in all but defense of person and property and by
6 duly authorized agents of the government to enforce the law.
7 And if you've ever been involved in a violent, chaotic
8 situation before, then you understand that there is no paradox
9 in saying that these rules, the coercive powers of the state,
10 are in place to preserve our freedom. I call this the ordered
11 liberty which is characteristic of Western civilization. The
12 plaintiffs call it white supremacy. And the difference between
13 me and your favorite respectable Republican is that I will
14 defend that way of life by any name. I won't run away from it
15 just because some lunatic calls it racist and threatens to hit
16 me, which is exactly what happened at the Unite the Right rally
17 in August of 2017.

18 How does one go about uniting the right, if you
19 bother to think about that for a minute? When we hear from the
20 plaintiffs' experts, they're going to tell us that the very
21 name of the event, "Unite the Right," was about white
22 supremacy. But if any of you have ever casted a vote for a
23 Republican, you know that that's complete nonsense. Do you
24 unite the right through violent crime? No. And anyone who
25 says otherwise is insulting your intelligence.

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1 What is the principal divide on the ideological
2 right? From our view, it's race.

3 There are people, some of them quite well-meaning,
4 who continue to take literally the demonstrably false idea that
5 all men are created equal. Now, don't get me wrong. That's a
6 fine legal concept, that we treat all of our citizens fairly
7 and according to the same set of rules. But if all men were
8 literally created equal, the world would be an exceedingly dull
9 place. Sure, there would be no Down's syndrome, there would be
10 no retardation, there would be no birth defects or racial
11 differences, if all men were literally created equal. But then
12 we would lose that which the ideological left claims is our
13 greatest strength: Diversity. We wouldn't have it. There
14 wouldn't be any such thing. If we were all born the same, then
15 we truly would be the interchangeable machine parts they try to
16 make of us with their collectivist programs. But the reason
17 these ideas always result in mass murder is because they are
18 contrary to the nature of the human organism.

19 We don't want to hurt people because they are
20 different from us. A man is not equal to himself from one day
21 to the next. "I am not equal to my co-defendants," you'll keep
22 hearing all of us say. I am not looking for uniformity; just
23 order, stability, and a government which organizes policy in
24 tune with the nature of our existence. Give me this and I will
25 live in peace with my neighbors, as I expect that all of you

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1 likewise desire.

2 But if the people who want to insult me over my
3 political views call themselves a racial interest group, that
4 doesn't give license for them to break the law. It doesn't
5 make their racial group better than mine. And it doesn't
6 entitle them to relief from the laws at work in this case.

7 Black Lives Matter is an -- openly Marxist and openly
8 violent. They can't hide behind race in this court.

9 I don't know my co-defendants well enough to speak
10 for them, but that's a fine summary of how I see things. And
11 since what I'm talking about in terms of biological reality
12 cannot be changed through ideology, it is my idea that, to
13 unite the right, Republicans need to stop fearing the
14 accusation of racism.

15 A very wise man once told me that to solve the
16 problems in the black community, it's going to, quote, "require
17 that white people grow some backbone and courage and stop
18 fearing being called a racist." His name was Walter E.
19 Williams, and you'll hear that name again before we're done.
20 That's how you unite the right, not with violent crime.

21 Violent crime unites the left. That's why leftists
22 say things like ACAB. "All cops are bastards" is what that
23 acronym stands for. At the one-year anniversary of the Unite
24 the Right rally, on August 12, 2018, their celebration over the
25 victory -- their victory over truth, leftists marched with a

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1 sign that said: "Last year they came with torches. This year
2 they come with badges." They were comparing us to the police.
3 And before we arrived in Charlottesville in August of 2017,
4 they chanted: "Cops and Klan go hand in hand," equating the
5 KKK with their local police department, because to them, we're
6 just like the cops. And on that point I hope you agree with
7 them. And there's going to be a lot of evidence to that effect
8 in this case.

9 The left-wing lexicon is a fascinating subject. When
10 Blee and Simi, their experts on the white supremacist movement,
11 use the terms "doublespeak" and "strategies of deniability,"
12 remember Plaintiff Wispelwey's favorite catchphrase:
13 "Diversity of tactics."

14 "Diversity of tactics." That's a key phrase I really
15 want all of you to remember throughout the course of this
16 trial.

17 You see, there are peaceful tactics and then there
18 are violent tactics, and then there are diverse tactics, which,
19 like all diversity, is the left's greatest strength. The
20 diversity of tactics makes this lawsuit possible, because
21 right-wing rallies only turn violent when leftists attack the
22 right-wing ralliers. But courts don't help confessed rioters.
23 You need somebody like Reverend Wispelwey to play the
24 sympathetic victim. He says, "Oh, I'm the peaceful religious
25 figure illegally blocking a public roadway with my friends in

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1 the revolutionary Communist Party. If you hit me, you're
2 mean."

3 And then, as Reverend Wispelwey told Slate magazine,
4 "battalions of Antifa" show up with, quote, "community defense
5 tools." That's what Plaintiff Wispelwey told Slate magazine in
6 an interview after these events.

7 So see how this works? "Diversity of tactics" is a
8 left-wing euphemism for political violence which is given cover
9 by ostensibly nonviolent co-conspirators.

10 If you watched the news in the end of 2020, you heard
11 about another one of those words: "Mostly peaceful protests."

12 The only time that you heard plaintiffs' counsel
13 mention Antifa in the course of their entire opening statement
14 was to deny any attachment to it. And before we're done here,
15 you're going to know that that was a lie, and that should
16 really upset you.

17 News flash: That's not how peaceful protest works.
18 If you tolerate the violence of your demonstration, it's a
19 riot. That's how it works.

20 This famous image came out last year of Jim Acosta in
21 front of a burning building with the lower third of the scene
22 said "Fiery but mostly peaceful protest." A lot of you saw
23 that. No. That's called arson. And it's illegal.

24 Another left-wing euphemism --

25 THE COURT: Mr. Cantwell, I hate to interrupt you,

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1 but an opening statement is basically to tell the jury about
2 your defense, and not to make, you know, a speech about --

3 MR. CANTWELL: The "diversity of tactics" line is a
4 phrase from Plaintiff Wispelwey, which I expect him to testify
5 to --

6 THE COURT: You can tell them what you're going to
7 tell them about your beliefs --

8 MR. CANTWELL: I expect --

9 THE COURT: -- and what you can prove about someone
10 else --

11 MR. CANTWELL: I expect Plaintiff Wispelwey --

12 THE COURT: -- other plaintiffs. All right?

13 MR. CANTWELL: That's all right.

14 THE COURT: Thank you, sir.

15 MR. CANTWELL: When Mr. Wispelwey takes the stand, I
16 intend to ask him about a term called "community defense."

17 Now, that sounds nice, doesn't it, folks? Almost borders on
18 Republican sloganeering. Defense, community? Where do me and

19 Ted Cruz sign up? But remember what Reverend Wispelwey told

20 Slate: Antifa had community defense tools, as in weapons. And
21 community defense is something very different from

22 self-defense, otherwise they would just call it self-defense.

23 Community defense is the use of physical violence in advance of
24 what advocates say are undesirable political outcomes. If

25 these people speak, they will gain power. They will use it in

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1 ways I disagree with. So I will defend my community by using
2 violence to prevent them from speaking. That's what community
3 defense is.

4 And you're going to hear Mr. Simi and/or Ms. Blee
5 testify that we use double-speak. That's hypocrisy.

6 Let me move on to something that's probably already
7 painfully obvious. I'm not a lawyer. But contrary to the
8 popular cliché, neither do I have a fool for a client. There's
9 no such thing as a public defender in civil court, and I'm
10 poor. So I'm the best attorney that I can afford. And I
11 didn't even stay at a Holiday Inn Express last night. As a
12 matter of fact, I'm going to let you in on a little secret. I
13 don't have to tell you this because it's actually not really
14 relevant to the details of this case. But last night I stayed
15 at the Central Virginia Regional Jail. And when this case is
16 over, I'm going back to a federal prison, win, lose or draw.
17 I'm a fairly recently convicted felon because my mouth gets me
18 into trouble a lot. And last year I was convicted of
19 threatening a Nazi on the Internet because he wouldn't leave me
20 alone and he threatened the woman I wanted to marry.

21 I didn't have to tell you that, but there's like 100
22 different ways you might find out, and I don't want to step on
23 a landmine before we're done here and you think I was trying to
24 snow you.

25 I'm sorry. Sometimes it's going to look like I don't

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1 know what's going on, because I don't. One of the ways I could
2 have stepped on that landmine is by coming out about some of
3 the difficulties I've had trouble preparing for this trial. So
4 I'm going to ask you to bear with me while I find my way
5 through this thing. And since I don't figure any of you are in
6 the habit of being jurors, I think that we're kind of in this
7 thing together. And if I'm lucky, you're going to feel that
8 way too by the time we're done.

9 Here's one thing I do know: I did not conspire to
10 commit racially motivated violence in August of 2017 or any
11 other time, and I didn't conspire to do any of this other crap,
12 either. There's a few guys who were convicted of conspiracy to
13 riot. And you'll notice before we're done here that those guys
14 are conspicuously absent from the courtroom. I think only one
15 of them have been deposed, and in the testimony you're going to
16 see from him, the plaintiffs don't even ask the guy about our
17 relationship because they knew before they asked him that there
18 wasn't one.

19 I didn't invite those guys. I don't think I ever met
20 those guys. And let me tell you: That makes it hard to
21 conspire.

22 There's a bunch of other people who should be in
23 prison for this thing. We'll usually refer to them as Antifa,
24 Communists, Reds, that kind of thing. You may recall, as I
25 said, the only time they mentioned this was to deny any

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1 involvement with them. And you're going to know that that's a
2 lie before we're done.

3 I really, really, really don't like these people.

4 And I'm toning it down right now because we're in polite

5 company. I told you before that my mouth gets me in trouble.

6 And before we're done here, you're going to see how that might

7 turn out to be the case. The plaintiffs are going to go

8 through every nasty thing I've said for the last decade and

9 that's why this thing is going to take a month. There's really

10 just that much of it.

11 And that's partly because I'm a professional

12 entertainer. It's what I do for a living. I'm a very talented

13 and dare I say good-looking host and producer of a live,

14 uncensored, open phones talk show called the Radical Agenda. I

15 made a brief attempt at standup comedy a few years back, I

16 started doing the YouTube thing, and then I was invited to be

17 the cohost of a nationally syndicated broadcast talk radio show

18 called Free Talk Live, which was nationally syndicated on over

19 160 FCC-regulated stations across this country.

20 Then my mouth got me in trouble. Some left-wing

21 activist on Twitter, who happened to be black, tweeted at me

22 with some identity politics nonsense about feminism, like that

23 was going to intimidate me. And to make the point that this

24 was not going to work on your humble correspondent, I gave him

25 a three-word answer. And that answer was "shut up, nigger."

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1 That's what I said to him.

2 And there's a lot more to it. There always is. And
3 we don't need to get into the weeds on this. But depending on
4 how you calculate, you might say that that began the journey
5 that caused you and I to meet. I got banned from Twitter. I
6 got fired from the radio. It made the news, and the publicity
7 got a lot of new people to check out my uncensored,
8 Internet-only entertainment product called the Radical Agenda.

9 On August 11 of 2017 this was how I made 100 percent
10 of my income. I'm very good at my job, in part because I don't
11 care who I upset as long as I entertain my audience. Though
12 largely based on true stories, the show is marketed as fiction
13 because it prioritizes entertainment value and shock value in
14 particular over accuracy. That is a calculated business
15 decision, as well as a matter of artistic integrity.

16 And to this you might say isn't it a contradiction of
17 terms to prioritize integrity over accuracy? And to this I
18 would respond absolutely not. Not in art. That's not how art
19 works and I am an artist. In art, anything is possible.
20 Things like common sense extremism, which is the tag line, the
21 catch phrase of my product, the Radical Agenda. Of course
22 "extreme" and "common" are contradictory terms. It's either
23 or, a binary choice, it's like male or female. It's impossible
24 to be both common and extreme.

25 So when I start the show and I say it's a show about

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1 common sense extremism where we talk about radical, crazy,
2 off-the-wall things like yada, yada, yada, that's me having
3 enough faith in you, the listener, to know that this is a gag.

4 I'm pretty sure the plaintiffs are going to play for
5 you a clip where I added sort of a disclaimer to the show intro
6 where I say specifically that, quote, "The listener is hereby
7 warned to interpret as fiction anything" --

8 (Reporter clarification.)

9 MR. CANTWELL: That's my radio voice and it doesn't
10 work for the reporter. I apologize, ma'am.

11 The quote was, "The listener is hereby warned to
12 interpret as fiction anything they are not able to verify in a
13 more reliable fashion." That's the quote.

14 Ma'am, if I -- if I do that again and I just repeat
15 it slowly afterwards, would that work for you? Because I kind
16 of want to get the idea across: There's a theatrical component
17 to it. I don't think I have a whole lot more of that anyway.

18 I made that decision right after this lunatic Bernie
19 Sanders supporter named James Hodgkinson tried to gun down the
20 Republican Freedom Caucus in Alexandria, Virginia. Some of you
21 might remember that story. It was right before the events at
22 the heart of this dispute.

23 That thing really bothered me for a number of
24 reasons, not the least of which, it was sort of a crescendo to
25 a lot of the political violence that was going on at the time.

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1 And as I said, it was in close temporal proximity to what we're
2 doing here.

3 I went to Charlottesville, Virginia in August of 2017
4 with that terrible event fresh in my mind. The plaintiffs want
5 you to think that I added that disclaimer to my show because I
6 was planning to commit a crime, and this was my way of covering
7 it up or some kind of nonsense like that. But before we're
8 done here, you're going to know that I'm not an idiot, and
9 since you're not either, I don't think you're going to buy it.

10 I'm going to do my best to make this fun for
11 everybody here. If I can make plaintiffs' counsel laugh at
12 jokes they shouldn't be laughing at, like it's involuntary, I'm
13 going to consider myself very proud of myself. But of course
14 here for our side anyway, accuracy matters more than
15 entertainment in this courtroom. But then again, you've
16 probably noticed that most comedy, most art, most
17 entertainment, even the purest fantasy productions feature
18 monsters, wizards and ghosts, have enough truth in them to make
19 them real to us.

20 It's not a chore to suspend disbelief because we can
21 relate, whether it's a boy seeking a girl's affection, conflict
22 over scarce resources, or civilizational scale warfare, all of
23 our entertainment products -- books, movies, TV -- all involve
24 a plotline, a plotline with a conflict, a conflict which
25 appeals to our deepest Darwinian survival and reproduction

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1 instincts. And that is what the Radical Agenda is.

2 If you were paying any attention at all to what was
3 happening between 2014 and 2017, it should come as no surprise
4 at all to you that entertainment products emerged which
5 challenged and capitalized on the prevailing left-wing
6 narratives about race in America. I am the host and producer
7 of one of the most commercially successful such products ever
8 created. And that is why I'm being sued instead of the
9 hundreds of nobodies who came and risked their lives to see me
10 say something in public.

11 I'm not going to ask you for anything that I wouldn't
12 ask you to give a pornographer or a gangster rapper. You don't
13 have to agree with me or like my artwork. The truth is, you
14 don't even need to believe I'm particularly trustworthy,
15 although I'd like to think I am, and obviously that would be
16 ideal. All you need to do is pay attention to the evidence in
17 this courtroom and do what Judge Moon tells you to do, and I'm
18 going to win this thing, no context. It's not even going to be
19 close.

20 I am accused of participating in a racially motivated
21 violent criminal conspiracy, not hate speech, which for the
22 time being is still perfectly legal in the United States. And
23 whatever they tell you, they would very much like that to
24 change. I told you I was glad you were smart because I need
25 you to be. The plaintiffs are going to try to trick you. They

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1 will show you racism and they will show you violence and they
2 will say, aha, gotcha, Nazi, racially motivated violence.

3 But smart jurors are going to notice a couple of
4 things conspicuously absent from that equation, most notably a
5 link between the racism and the violence. A lot of these
6 plaintiffs look as white as me, and for the non-white
7 plaintiffs, with the exception of Mr. Fields's guilty plea,
8 you'll find no connection between the violence and the racism.
9 And I don't think that Mr. Fields's guilty plea is very
10 credible, actually, personally.

11 The other big glaring hole in this story is the
12 conspiracy. If I show up in Charlottesville to say Nazi things
13 and some nutcase decides to commit a hate crime, I'm not
14 legally responsible for that, unless I enter into an agreement
15 with a co-conspirator to make this happen.

16 But there's not just holes in the story, there's also
17 a giant elephant in the room. The plaintiffs are like racism,
18 violence, pay no attention to the armed communists who started
19 the fight or you're a racist too. You might have noticed
20 weapons and protective gear and communist symbols in some of
21 the plaintiffs' opening exhibits. So not only am I lucky that
22 you're smart, I'm also exceedingly fortunate that you're not a
23 bunch of sniveling cowards who would betray your civic duty to
24 avoid being called a racist.

25 Come to think of it, I'm also probably pretty

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1 fortunate that you're not a bunch of closet racists, because
2 this way you don't need to hide your true views by throwing me
3 under the bus.

4 No matter how the plaintiffs or their parade of
5 partisan Democrat swindlers tries to frame it, this case is
6 about hate speech. The plaintiffs are going to try to shoehorn
7 size 12 hate speech allegations into size 5 conspiracy heels.
8 They have to do this because the Constitution of the United
9 States gives them no other way to punish the people whose
10 speech they want outlawed.

11 They tell you they believe in freedom of speech.
12 You're going to know that's not true before we're done here.
13 And it should piss you off that they lied.

14 They've hired some very well-paid people to
15 complicate things, but at base, like I said before, this is
16 pretty simple. Here's racism, here's violence. Blame the
17 racists for the violence and give us lots of money from this
18 guy who can't afford a lawyer. That's a trick and you
19 shouldn't fall for it.

20 Beyond the fact that you're smart, I don't think
21 you're going to fall for this because there's actually a lot of
22 evidence to the contrary, it turns out. You see, I'm smart
23 too. I don't think you're going to fall for this. I'm sorry.
24 I knew there was going to be Antifa there. And while most of
25 America only heard about them in 2020, me and my associates

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1 have known about them for many years. They hunt us like
2 animals, and they are violent and they are dishonest.

3 So when I came to Charlottesville, I wore a body
4 camera. You might have noticed it when the plaintiffs showed a
5 picture of me wearing the Radical Agenda T-shirt. You might
6 have seen it clipped to my collar. You're going to see at
7 least two videos from that during this trial.

8 Let's start with the obvious: Why does the guy who
9 traveled across state lines to commit the crime wear a body
10 camera? Why do his co-conspirators let him do something so
11 reckless?

12 Conspiracy, the judge told you, involves an unlawful
13 purpose. The plaintiffs tell you that we came here planning to
14 get away with this. Why am I recording video of the whole
15 thing? I'm not a cop. This wasn't a secret. The plaintiffs
16 didn't have to drag this evidence out of me. It wasn't found
17 in a search warrant. I wore the body camera and recorded
18 because I was afraid that somebody might try to hurt me, and
19 I'd have to defend myself, and I wanted to make sure that
20 nobody had to take my word for what happened.

21 Again, I don't expect you to trust me. That's the
22 whole entire point here. I'd certainly prefer to earn your
23 trust, but one of the things you're probably going to hear me
24 say in several different interviews that gets played here,
25 because I say it all the time, is that I knew long before I

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1 showed up in Virginia that I'm going to be a profoundly
2 unsympathetic defendant in a courtroom if I get charged with a
3 crime.

4 So I brought the body camera to protect myself. And
5 as you're going to see before we're done here, it's a very
6 fortunate thing that I did. It's also a good thing I saved the
7 videos before I went to University of Virginia on August 11th,
8 because the plaintiffs' co-conspirator, Lindsey Elizabeth
9 Morris, an Antifa criminal from Philadelphia, stole it from me.
10 And I should be able to show you two different angles of that
11 theft, from other cameras that picked it up. More on that
12 later.

13 The first body camera video takes place in the
14 Walmart parking lot in Charlottesville on August 11, 2017 at
15 something we called the Radical Agenda listeners meet-up. This
16 was the only event of the weekend that I could accurately be
17 described as having organized, and despite the best efforts of
18 Antifa, there was no violence at that event.

19 One of the ways I used to make money on the Radical
20 Agenda -- there's a premium content subscription service called
21 a paywall. For a monthly fee, users gained access to
22 members-only, exclusive bonus content. Since I was afraid of
23 Antifa, but I wanted to meet my listeners before the event, I
24 disabled news silence on the website and announced the meet-up
25 details behind that paywall so that only existing paying

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1 customers could see it. You couldn't find out I was going to
2 do it and then quick pay the ten bucks, okay? Which tells you
3 something in and of itself: I'm trying to avoid the people who
4 say I'm conspiring to attack them.

5 You're going to see a lot of that nonsense in this
6 case, and it's obviously ridiculous. The plaintiffs told you
7 in their opening statement that the torch march of the evening
8 of August 11 was supposed to be a secret. Okay. So we had a
9 secret rally that was designed to attack a bunch of innocent
10 students. Really? Is that what they want you to believe? You
11 should be insulted by that.

12 I've got some printouts from my website to show you
13 how that paywall feature works. It works very well actually.
14 But that didn't stop Mike Longo, Jr. and Paul Minton and some
15 other Antifa criminals from confronting us in the Walmart
16 parking lot. The logical conclusion is that they were paying
17 me money before this went down so that they could spy on me and
18 my listeners. Who is conspiring against who here? Huh?

19 But it gets worse than that. You're going to see on
20 that video, I pull up to the Walmart, I get out of my car, I
21 wait for my listeners to show up. They quickly do, we all get
22 to shaking hands. We're having a fine time. And then Antifa
23 shows up. They're all white, as usual, but we know it's them
24 just because they've got that kind of scumbag look to them.
25 You know the type.

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1 Now, I was legally carrying a gun at the time, a
2 Glock 19 semi-automatic pistol in my waistband in the small of
3 my back. I tucked my shirt in behind the holster to let these
4 violent criminals know that violence was not going to be a
5 viable option for them that day, but I did not take it out of
6 the holster, point it or threaten them or any of the other
7 lunatic crap that they ran and told the 9-1-1 operator
8 immediately afterwards.

9 In the video you're going to see the cops show up,
10 and they question us, and they say hey, we got a report of a
11 guy that pulled a gun on someone. And I say to the cops, hey,
12 I got a body camera right here. I did nothing of the sort. So
13 you go ahead, take this. I'm happy to cooperate with you. We
14 got nothing to hide.

15 But the cops didn't take my camera because the guy
16 who called in the false report didn't want to take credit for
17 making a false report. The complainant didn't show up and the
18 police sent us on our way.

19 From there it was on to an interview I had scheduled
20 with a reporter from Vice News Tonight on HBO. HBO, the
21 company that gave you The Sopranos and Game of Thrones and
22 stuff. Great entertainment products, let's say. I expect the
23 plaintiffs to play some choice clips from that slickly edited
24 Emmy Award-winning production from the Home Box Office company.
25 If necessary, I've got the full unedited audio of the two

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1 interviews I did with that reporter in two different states
2 because I was concerned that she would take me out of context.
3 So I brought my own pocket audio recorder with me to make a
4 complete unedited recording.

5 So now, remember what I asked you to think about when
6 I told you that I had a body camera. Ask yourself again: Why
7 is the guy who is plotting to commit a crime hanging out
8 talking to reporters and creating unedited recordings for his
9 own release on his website? Why are his co-conspirators going
10 along with all of this fame whoring? Obviously this is the
11 behavior of an activist and a performance artist, not a
12 criminal conspirator.

13 But wait. There's more. Like a Billy Mays
14 commercial. After the first Vice News interview, my
15 co-defendant Jason Kessler and someone who is conspicuously not
16 a co-defendant, who called himself Kurt Vandal, invited me to a
17 so-called leadership meeting. You'll have the opportunity to
18 see those messages, I think, but it's just an undisputed fact
19 that I was invited at sort of the last minute.

20 Which brings us to an important point which you've
21 heard some of my co-defendants say, and I should touch on
22 briefly. I don't really know my co-defendants that well. As a
23 matter of fact, I noticed -- pardon me, Richard. I noticed
24 Richard has like a stuffed animal in his bag there, and it
25 occurred to me, I didn't know that Richard had kids. And if

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1 you think that I'm going to enter into a criminal conspiracy,
2 risk going to prison, for a guy I don't even know if he's got
3 kids or not, you're out of your mind. I wouldn't to that.
4 That's insane.

5 I really don't know my co-defendants. I knew them
6 even less on August 11, 2017. I shouldn't speculate too much
7 about what you're going to see regarding that, but you're not
8 going to see the kind of closeness that a conspiracy such as
9 the one alleged by the plaintiffs requires. There's a lot of
10 "nice to meet you" type stuff going on here.

11 As a matter of fact -- pardon me while I try to piece
12 this all together here. To the best of my knowledge, I have
13 never met Michael Hill and Michael Tubbs. The first time I met
14 James Fields, I was in jail, and so was he. The first time I
15 met Azzmador was at that leadership meeting on August 11. The
16 first time I met Tom Rousseau was at the same meeting. I saw
17 Jeff Schoep, or "scoop," whatever his name is, once before
18 C'ville at an event in Pikeville, Kentucky. I might have
19 shaken his hand. I don't really know if I did, to tell you the
20 truth.

21 I texted Matt Heimbach in Charlottesville. "This is
22 Cantwell." And it was just before -- I forget if it was August
23 11 or what it was. I think it was August 11. Because before
24 that day, he wouldn't have recognized my phone number to
25 receive a text from it.

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1 The plaintiffs have told you that the majority of
2 planning was on Discord, but you might have noticed for all
3 their talk about me, they didn't show you any of my Discord
4 messages. That's because they were thoroughly uninteresting.
5 And I only actually joined the Charlottesville 2.0 Discord, I
6 know it was in the month of August. Let's just say August 1st.
7 It might have been later than that actually. I was not an
8 administrator of the chat server. I was not in any of the
9 leadership channels. I think I posted to it maybe 13 times and
10 I had joined that month.

11 So not to throw the organizers of the event under the
12 bus or anything, but I just wasn't one of them. It's just a
13 fact of this case. I didn't conspire to hold a legal event,
14 much less commit a crime. I was invited to speak by a
15 defendant by the name of Augustus Invictus, who has defaulted
16 on this suit, who isn't here. So, you know, I don't know what
17 to say about what he did.

18 But I was only invited to the so-called leadership
19 meeting at the last minute after the location had changed.
20 Now, leaders make decisions like this, about changing the
21 location of the meeting. They don't get informed of the
22 meeting's existence after the other guys' plan goes to pot.
23 But I did go to the so-called leadership meeting. And the
24 plaintiffs allege that we conspired at that meeting to commit
25 racially motivated violence. As a matter of fact, they didn't

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1 mention that in their opening statement, which was kind of
2 interesting because they mentioned it in their complaint.

3 When I was -- when they served us with this lawsuit,
4 they didn't know I had that body camera video. Now, I can tell
5 you that I -- spoiler alert: I have a video of the meeting. I
6 deny that I conspired to commit racially motivated violence
7 anywhere, much less at this meeting. So they say there was a
8 racially motivated violent criminal conspiracy hatched at the
9 meeting. I say there wasn't. And guess what, there's a video
10 of the whole thing.

11 You will have the chance to judge for yourself who is
12 telling the truth, and more importantly, who is lying to you,
13 based on that video.

14 Now, you might be asking yourself, how did they get
15 this video? Was it an undercover cop, a snitch, hot mic? No.
16 It's my body camera tape. I wasn't surreptitious. It wasn't
17 accidental. I was afraid that Antifa might try to hurt us, so
18 I was recording for my own protection.

19 And here we find ourselves facing nearly precisely
20 such a false accusation. It's a good thing I never expected
21 you to take my word for it because we have an objective record
22 of the entire nearly two-hour meeting so you can judge what
23 happened without trusting anybody.

24 Since the plaintiffs allege a criminal conspiracy,
25 what's most important about this video is what you don't see.

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1 Same thing for the Walmart parking lot video. So when it's my
2 turn to go here, if they let me, which I think they're going
3 to, we're going to watch this whole thing from front to back,
4 from beginning to end, because they say it's a violent criminal
5 conspiracy. Let's see when I get out of my car and when I get
6 back into my car and you tell me when the crime happens.

7 Now, you will hear a couple of racist jokes. We're
8 sort of notorious for these things. You'll hear us talking
9 about pepper spray, firearms, armor. You'll even hear some
10 brief mention of running people down with a vehicle and getting
11 in a gun fight. But what you won't hear is a conspiracy to
12 commit any crime, much less a violent one.

13 You'll also hear me tell Jason Kessler, quote, "If
14 we're going to do it at all, I want the cops involved," end
15 quote. You'll hear Jason agree, and Defendant Kline, who has
16 abandoned this litigation, but is on the video, he tells us
17 that the police are indeed on board. Well, I guess this
18 conspiracy goes pretty deep, huh? The cops are in on it now?

19 So after a long day of being conspired against but
20 conspiring against nobody, I go back to my hotel room without
21 my co-defendants, and the next time I see them is at the
22 University of Virginia. I should be kind of careful about what
23 I say here because I don't actually know how much I'm going to
24 be able to get into evidence, but I am sure -- you've already
25 seen it. They played it in their opening. You see a picture

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1 of me pepper spraying a guy. And the plaintiffs are going to
2 say aha, gotcha, Nazi. There's our hate crime. But if you
3 paid any attention, you might have noticed that the guy I
4 pepper sprayed -- pretty white for a hate crime. So I'm lucky
5 that you're smart. Smart jurors ask questions like: Hey, I
6 thought that guy Chris was all right. Why did he pepper-spray
7 that guy? And then you're going to be able to look at the
8 video. And you're going to be like: Wait a second. That guy
9 was fighting before Chris pepper-sprayed him. Aha. I knew
10 Chris wouldn't pepper-spray a guy for no reason.

11 And you're going to notice, as I said: Hey, wait a
12 second. If this is some kind of racist conspiracy, why isn't
13 Chris pepper-spraying those black guys? And the simple answer
14 to that is: They weren't the threat. They weren't fighting.

15 A fight broke out. I wasn't happy about it. I did
16 what I thought I had to do. All the people fighting turned out
17 to be white. If the blacks fought, I'd have fought the blacks.
18 I'm an equal opportunity guy. I had nothing against those
19 white people for being white.

20 Now, you can imagine the body camera video of this
21 was pretty intense. But, unfortunately, I don't have it. The
22 camera got stolen during the fighting by Lindsey Elizabeth
23 Moore, who is a Philly Antifa. You're going to see two
24 different angles of video that this happened. And then I get
25 pepper-sprayed by the same guy you saw me pepper-spray in the

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1 plaintiffs' opening statement. And then I'm out of the fight
2 and it's basically -- it's basically over.

3 Now, that fight was pretty busy: A lot of people, a
4 lot of different angles of video, a lot of action. I'm going
5 to try to show you as much of it as I can. Some of it is
6 pretty amazing, but I still don't totally get the rules of
7 evidence, so I'm not going to make a bunch of promises right
8 now, in case I can't keep them.

9 I can tell you what you're definitely not going to
10 see. You're not going to see me pepper-spray a Jewish man
11 named Christopher Goad or a transgender Asian calling himself
12 Emily Gorcenski.

13 The plaintiffs are going to tell you that I pleaded
14 guilty to two counts of misdemeanor assault and battery, one on
15 each of these two names. And it's true I pleaded guilty to
16 those two charges. But that does not prove the plaintiffs'
17 claims. They just told Mr. Spencer it doesn't matter that he
18 wasn't charged. It doesn't matter that I was. As a matter of
19 fact, I sued Goad and Gorcenski for malicious prosecution, and
20 to avoid liability for filing a false report, Goad and
21 Gorcenski signed a mutual release of all claims with me, so
22 they are not parties to this suit. Neither is the guy that I
23 pepper-sprayed, by the way. They are not parties to this suit.
24 They never were. I can't sue them and they can't sue me.
25 That's the terms of our agreement.

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1 What I actually pleaded guilty to wasn't actually
2 even an attack on either of these individuals. They changed
3 their stories a few times. But ultimately, they say that they
4 were affected by my overspraying when I pepper-sprayed the guy
5 you saw in the picture during plaintiffs' opening statements,
6 the guy we talked about before. An accident, in other words.
7 That's what I pleaded guilty to.

8 Now, I could have gone to trial, but I was facing
9 40 years in prison if convicted. And I was offered a plea
10 agreement: Plead guilty to the misdemeanors and go home right
11 now, or go to trial and risk it all. Ladies and gentlemen, I
12 am no coward. But I am not stupid, either. And with all due
13 respect to the process we're in the middle of, I don't trust
14 the system that much. So if you tell me to choose between a
15 100 percent chance of going home right now with my Second
16 Amendment intact or the possibility, no matter how slim, that I
17 do 40 years in prison, I'm going home. And anybody that don't
18 like it can kiss my ass. You'd do it, too.

19 Now, the only reason I'm telling you this is because
20 it's true. My conviction is not evidence of a racially
21 motivated violent conspiracy, and it wouldn't be even if it was
22 for something I actually did. So that's August 11th in a
23 nutshell. Long day, let me tell you. Hell of a thing. The
24 main event was scheduled for August 12th. What a weekend.

25 Now, the thing about August 12th is I actually don't

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1 know a whole lot about August 12, because I got pepper-sprayed
2 by Mike Longo, Jr. first thing in the morning, same guy who
3 confronted me at the Wal-Mart parking lot, same guy you'll see
4 in video on August 11th at UVA. First thing in the morning, I
5 get pepper-sprayed as I'm literally walking to the park. I'll
6 tell you what: That kind of cramped my style a little bit.
7 Twice in as many days.

8 So after I got out of that park and my eyesight
9 recovered, I went back to my hotel room and found out about the
10 car wreck the same way most of you did. Sad thing, let me tell
11 you. Girl dead. Bunch of people hurt. Innocent man spends
12 the rest of his life in prison. That was not nice. It's
13 enough to make a man cry, matter of fact. Made me cry. The
14 whole thing, not the wreck itself. The media gave me a
15 nickname. There's a video of me that became rather famous, of
16 me in tears. They called me the Crying Nazi. Literally adding
17 insult to injury. Fucking vultures.

18 So what I've told you here is what I can prove, at
19 least this much, to you. I have higher ambitions for this
20 trial. The easiest thing for me to do is come in here and say
21 I didn't do what they're accusing me of. There's just no
22 evidence. I don't have to do anything. I don't have to go
23 through this spiel. I don't have to show you what happened. I
24 can sit in that chair and I can ask people: Did I hurt you?
25 Did I conspire with you? And everybody is going to say no,

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1 because there's no evidence I conspired with anybody.

2 But what happened that day was important. And what's
3 happening here is important, too.

4 My website is christophercantwell.net. When this is
5 over, I hope you all become die-hard fans and together we can
6 try to save the country. But for now, just try to find -- real
7 hard, try to find the part where I enter into an agreement with
8 a co-conspirator to commit a crime. These guys are going to
9 waste a month of your life on that goal, and they're going to
10 fail, because it's not true, and they know it's not. And that
11 should piss you off almost as much as it pisses me off, even if
12 you share their ideological viewpoint. And I say that with all
13 sincerity, because as much as I don't want our politics going
14 any further left, I genuinely appreciate diversity of opinion
15 and lively debate.

16 Did I -- oh, that mic. Sorry.

17 A lively debate -- I should skip that paragraph
18 after -- there are changes this country is going through.
19 Anybody who refuses to engage in an honest debate is going to
20 be left out of the conversation. If you don't want me and my
21 associates ruling this country unopposed, you need to send a
22 very clear message to the violent Communists and the corrupt
23 elites that caused us to meet today.

24 Calling somebody a racist is not an excuse to use
25 violence. If you want to avoid fascism in America, you'd do

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1 well not to censor and disarm your populace.

2 Calling somebody a racist is not an excuse to abuse
3 the legal system. And it's certainly no excuse to steal a
4 month from decent people like you.

5 Thank you very much for indulging me. My name is
6 Christopher Cantwell, and I'm looking very much forward to your
7 verdict, unanimous or otherwise. Thank you.

8 THE COURT: All right. Thank you.

9 Mr. Campbell?

10 MR. CAMPBELL: Thank you, Your Honor. May it please
11 the Court.

12 Good afternoon, ladies and gentlemen. My name is
13 Dave Campbell, and I represent James Fields in this lawsuit.

14 I'm not here to defend hate. I'm not here to defend
15 white supremacy. I'm here to defend James Fields to the extent
16 that is possible.

17 In that regard, I'm not going to attempt to get you
18 to believe that Mr. Fields did not intentionally drive his
19 vehicle into a crowd of people, as you've seen in the video
20 multiple times, and will see many more times, I'm sure.

21 Similarly, I'm not going to try to make you believe
22 that Mr. Fields did not attend Unite the Right, that he did not
23 march with members of Vanguard America, or that he was not
24 given a shield of that same organization. At the end of this
25 case, primarily, I will be asking you to be fair.

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1 Now, the case against Mr. Fields is significantly
2 different from the co-defendants'. Primarily, they all will
3 argue and present evidence to say that, yes, they conspired to
4 have the event, but that they did not conspire to commit
5 racially motivated violence.

6 As to Mr. Fields, pursuant to a federal plea
7 agreement he entered into, there is no question that he
8 committed racially motivated violence. The defense as to
9 Mr. Fields is he didn't conspire.

10 I don't believe, despite a mountain of discovery and
11 a mountain of evidence that will be presented to you over the
12 course of four weeks, or nearly four week, that you will see
13 any communication, any email, any agreement between Mr. Fields
14 and any co-defendant. In fact, I don't think you will hear
15 from any witness that anyone knew who James Fields was before
16 August 12th of 2017.

17 I ask that you look through the evidence that's
18 presented and see if any co-defendant, any organizer or alleged
19 organizer of Unite the Right, had any direct communications.
20 There's going to be a lot of evidence and -- sorry about that.

21 Can you all hear me okay without the microphone?

22 Again, I don't believe that evidence will be there.

23 So as to Mr. Fields, I believe this case has three
24 parts, okay?

25 The first part is compensatory damages for people

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1 that Mr. Fields entered into a federal plea agreement that he
2 did intentionally drive into and strike with his vehicle. As
3 to that, you will not hear any argument from me. All of those
4 plaintiffs are entitled to compensatory damages. Your mere job
5 here, in that regard -- and I don't mean to minimize the job
6 you have by saying "mere" -- but your only job in that regard
7 is to assess a fair amount of damages. And that's entirely up
8 to you. There won't be any argument in that regard from me.

9 The second portion of the case as to Mr. Fields is
10 conspiracy. There, as we briefly discussed, I ask that you
11 keep your eyes on the evidence. It's your decision. If you
12 feel the plaintiffs have met their burden and proved a
13 conspiracy between Mr. Fields and anyone else you believe is an
14 organizer of the rally to undertake the acts that he undertook,
15 by all means, find on a conspiracy count for the plaintiffs.
16 If not, we ask that you find for the defense.

17 The third portion as to the case for Mr. Fields is,
18 because we've already discussed you will be finding a
19 compensatory damage amount as to anyone struck by his car,
20 anyone actually injured by his acts, without a doubt, you'll
21 also be asked to award what are called punitive damages to
22 Mr. Fields. Now, those are beyond compensating people who are
23 injured, medical bills, pain and suffering, loss of wages, that
24 sort of thing. You'll be asked for -- to award more by way of
25 punitive damages. And I think you will probably be asked to

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1 award that not just as to Mr. Fields, but probably to others.

2 And in that regard, I would simply point out to you
3 that, unlike all of the other co-defendants, you won't hear
4 from Mr. Fields here this week. Unlike all the other
5 co-defendants, Mr. Fields is in federal prison for life, and
6 actually has 30 life sentences.

7 So to the extent that you are asked to punish
8 Mr. Fields, I simply will submit to you at the end of the case
9 that he's been punished.

10 Thank you for your time.

11 THE COURT: All right.

12 MR. JONES: Every one of us in this courtroom has a
13 difficult job to do, from defense attorneys to Judge Moon to
14 plaintiffs' attorneys to the court reporter trying to keep up
15 with everything. But I think your job is the most difficult
16 because you have to you have to treat each individual party --
17 you have to treat each party individually.

18 There are nine plaintiffs and there are 20
19 defendants. You have to look at all the evidence in the case
20 and apply it to each individual differently.

21 So what I would like to do is, for the three clients
22 that I'm representing, Michael Hill, Michael Tubbs, and the
23 League of the South, is provide some suggestions for how you
24 can focus your energy over the next couple of weeks.

25 My name is Bryan Jones, by the way. I practice here

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1 in Charlottesville, Virginia.

2 The first thing to consider as you're listening to
3 evidence over the next couple of weeks is: What do Michael
4 Hill, Michael Tubbs, and the League of the South have to do
5 with James Fields?

6 As you're hearing tweets that Michael Hill posted,
7 text messages or emails -- as you're listening to the evidence
8 today, tomorrow, for the next couple of weeks, ask yourself:
9 What does that have to do with whether Michael Hill, Michael
10 Tubbs, and the League of the South were in a conspiracy with
11 James Fields and whether his car attack was part of that
12 conspiracy?

13 You saw the plaintiffs present their evidence on that
14 point. It was a photograph of Eli Mosley or Elliott Kline,
15 whatever he goes by. He was talking on the phone and walked
16 past Mr. Fields. That's the evidence they have to show there
17 was a conspiracy and Mr. Fields was a part of it and his car
18 attack that was a part of that conspiracy: Somebody walking
19 past Mr. Fields with a telephone. That doesn't prove a
20 conspiracy. That doesn't prove Michael Hill, Michael Tubbs,
21 and the League of the South were part of that conspiracy. Just
22 because James Fields wore a white shirt and khakis and held a
23 shield doesn't make him part of this conspiracy.

24 The second suggestion I have is the torch march. As
25 you're hearing evidence about the torch march, ask yourselves:

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1 If Michael Hill and Michael Tubbs didn't attend the torch
2 march, did they conspire to commit violence at the torch march?

3 We know they weren't there and we know they didn't
4 conspire to commit violence there because, a few minutes before
5 the torch march, one of the other members of the League of the
6 South sends an email to Michael Hill. He said: "Apparently
7 Antifa has found out about the timing, the location of the
8 torch march. If the League of the South is going to be there,
9 be careful." This is before the torch march had even occurred.
10 And Michael Hill responded: "Thanks, but this is not our game.
11 We are sending two observers."

12 Michael Hill lives in Alabama. He was born in 1951.
13 That makes him 70 years old this year. He's the oldest by far
14 of any of the defendants. He's a retired college history
15 professor. He founded the League of the South in 1994 to
16 promote the ideals of the Confederacy.

17 Around 2017, there was a lot of debate about
18 historical monuments and whether they should remain or whether
19 they should be taken out. And Michael Hill and the League of
20 the South traveled around the south, held rallies at the sites
21 of these various historical monuments.

22 As a Confederacy-sympathizing organization, of
23 course, they were in favor of keeping the monuments where they
24 were. That's why they came to Charlottesville. Michael Hill,
25 Michael Tubbs, and the League were there for August 12th for

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1 the rally at Emancipation Park in front of the statue of
2 General Robert E. Lee.

3 Michael Hill drove straight from Alabama to
4 North Carolina to carpool with another member of the League and
5 drove straight to Madison, Virginia. They had a campsite
6 retreat where they stayed the night. They didn't stop in
7 Charlottesville. Didn't attend the torch march.

8 Michael Tubbs is 61 years old this year. He's from
9 Florida. He joined the League of the South in the year 2000.
10 He drove up from Florida on August 11 and went straight to
11 Madison, Virginia, where the League of the South members were
12 staying that night. He didn't stop in Charlottesville for the
13 torch march. They were there for the rally at the Robert E.
14 Lee statue the next day.

15 The League of the South was worried about Antifa,
16 much like the other defendants. You've heard about the Battle
17 of Berkeley. You've heard about the clashes between Antifa and
18 the violent -- and other violent protest groups. So they
19 prepared themselves -- prepared to defend themselves at the
20 rally in Charlottesville. That's why they used secure
21 communications to try to prevent Antifa from finding out their
22 plans, finding out where they were.

23 So as we're listening to the evidence, remember those
24 two things. What does that have to do with James Fields and
25 Michael Hill, Michael Tubbs, and the League of the South? What

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1 does that have to do with whether they're responsible for the
2 violence that happened at the torch march that they didn't even
3 attend?

4 The evidence is going to show that, basically, what
5 the plaintiffs have done in this case is thrown out a net into
6 the ocean, one of those commercial shipping nets that drags
7 along the ocean and picks up everything. They've dumped it
8 right in front of you, and they're trying to tell you it's
9 all -- they're trying to tell you that everything that they've
10 ensnared in their conspiracy theory is good.

11 They're partly correct because they have, of course,
12 James Fields. They have whoever committed the violence at the
13 torch march. That's partly correct. But Michael Hill and
14 Michael Tubbs and the League of the South don't belong there.
15 And at the end of this case, I'm going to ask you to find them
16 not responsible for the plaintiffs' injuries.

17 Thank you.

18 MR. REBROOK: May it please the Court, Your Honor,
19 ladies and gentlemen of the jury. Good afternoon. My name is
20 Eddie ReBrook. It is my opportunity, honor, and privilege to
21 give you my opening statement.

22 In fact, this will be the last time I ever give an
23 opening statement as a member of a defense team. We'll both be
24 making history in this case, for good or for bad.

25 Who am I? I am a lawyer. I am a soldier, a former

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1 soldier. I'm a father of a little girl, and I'm a
2 thrice-vaccinated Democrat. I cut for an odd defense attorney
3 for this group of people. I know that. But these defendants
4 also cut for very odd conspirators, which I hope to show you
5 through the evidence we present in this case.

6 Ladies and gentlemen, I do not envy your position
7 today. We all have places we'd rather be, myself included. In
8 fact, I think it's pretty much everywhere I'd rather be than
9 here. You all saw what I saw this morning, and it certainly
10 had an impression on me. I'm disgusted by a lot of what I saw.

11 About ten years ago, while still a fresh-faced law
12 student, I took trial advocacy as an elective, and one of the
13 first lessons we learned regarding opening statements was to
14 attempt to humanize defendants, to try to make a jury see
15 themselves in those people that they are meant to judge.

16 I'm not going to do that. I think it would be a
17 waste of your time, and it would be a waste of my time, for me
18 to try to humanize people who harbor beliefs that most of us
19 would spend our last breath opposing, for too much of this case
20 has focused on who these people are already, both in the news
21 and in the court of public opinion. And, frankly, by doing so,
22 we're giving them exactly what they want every time they throw
23 a rally: Attention. Little people seeking attention.

24 The plaintiffs will spend the majority of this trial
25 repeating nasty, racist, and hateful hyperbole that the

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1 defendants spewed back and forth at each other in internet chat
2 rooms. You won't emerge from this trial liking these
3 defendants. So why bother trying to get you to like them now?
4 It would be pointless.

5 If you want to like somebody, look at Heather Heyer.
6 If you have want to feel sorry for somebody, look at her
7 mother, who lost her only child when James Fields drove his car
8 into a crowd of people and killed her. That is a fact. And
9 it's undisputed. And I'm not going to try to dance around it.
10 I'm not going to try to pretend that the victims aren't
11 victims. They are.

12 But this case isn't about who we like and dislike.
13 No. Ladies and gentlemen, this case is about vengeance and
14 assigning blame.

15 We're brought here today in this civil case -- not a
16 criminal case; that's been pointed out more than once to you --
17 because of the fallout of the Unite the Right rally and the
18 conditions that made that fallout happen.

19 The defendants have been accused of intentionally
20 conspiring to incite violence, a crime. But as I just told
21 you, this isn't a criminal proceeding. The standard here is
22 lower in a civil case than it is in a criminal proceeding.
23 There's a reason for that. But make no mistake, the stakes
24 have never been higher, not just for my clients, not for the
25 victims of Charlottesville, but for our republic, because I

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1 will agree with some of the co-defendants that this case,
2 despite what has been said, is, in fact, about free speech.

3 Now, last night while preparing to write this, I
4 looked up some of my favorite speeches from Hollywood movies,
5 from the internet, from history, trying to find a way to
6 encapsulate what it is I wanted to do in this case, where I
7 want to take you with the evidence, questions I want you to ask
8 and things I want you to keep in mind. I don't know if any of
9 you have seen The American President, where Michael Douglas
10 says: "America is not easy. It's advanced citizenship. You
11 have to want it. You want free speech? Let's see you
12 acknowledge a man who makes your blood boil, who is standing
13 center stage and advocating at the top of his lungs that which
14 you would spend a lifetime opposing at the top of yours."

15 This case is about a question of collective guilt.
16 Should all be blamed for the independent actions of others,
17 many who are unnamed, many who will never be inside this
18 courtroom? You're going to hear from plaintiffs' witness
19 Professor Simi, a mind reader, who is going to come in here
20 with a crystal ball and tell you that people didn't mean what
21 they said and what they wrote, but that they mean these other
22 things that we're inferring that they said and that they wish
23 that they had written.

24 The evidence will prove that defendants got a permit
25 for their hate rally. Odd behavior indeed for persons trying

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1 to break the law. One would think that would-be criminals
2 would want cops to not be around, but a permit would guarantee
3 that they would. Unfortunately, a permit did not guarantee
4 that the police would do their duty. Whether they weren't
5 prepared for the numbers, or whether they just didn't care
6 about the fallout, the fact is they did not protect and serve.

7 I want to point out to you, and I must remind you
8 throughout this case, that a conspiracy by its very definition
9 involves more than one person. So even though it is an
10 undisputed fact that James Alex Fields ran his car into a crowd
11 of people causing irreparable harm, that is not in and of
12 itself a conspiracy.

13 In this case I don't represent all of the defendants.
14 I don't represent James Alex Fields and I don't represent
15 anyone you see in this room. My clients are probably the most
16 nefarious and notorious clients in this case, other than James
17 Alex Fields.

18 I represent the former commander of the National
19 Socialist Movement, Mr. Jeff Schoep, and I represent the
20 National Socialist Movement itself. What the evidence will
21 show you is that these particular defendants were not present
22 for the torch march, weren't even there. It will show they
23 weren't present for James Alex Fields running his car into a
24 group of people. They had already left and were heading back
25 to their hotel.

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1 They heard about it the same way we heard about it:
2 On the news. The evidence won't prove that there's any
3 connection between James Alex Fields and the other defendants,
4 that he acted alone.

5 Many years ago, before I became an attorney, before I
6 went to law school, I was a cadet at West Point, and I tried to
7 guide my ethics and my moral choices by what I learned in the
8 cadet prayer. And if I could quote from it briefly, it's to
9 help us choose the harder right over the easier wrong, and to
10 never be content with a half truth when the full can be won.

11 We're going to be asking you, upon presenting you
12 this evidence, to make a choice. You can choose the harder
13 right. It's an unpopular choice and it's going to earn you the
14 scorn of the media, the press, many of your friends, and this
15 beautiful city. It will require you to set aside the natural
16 human desire for vengeance and the desire to spread blame as
17 far and wide as possible. I can tell you as the father of a
18 little girl, if a political person of any variety were to kill
19 my daughter, there is no length I would not go to to cause pain
20 to that person. I get it.

21 Regardless, you can make a different choice. You can
22 make an easier choice, and that's the choice that the
23 plaintiffs are going to ask you to make. It will earn you more
24 than a few attaboys. To make this choice will require you to
25 make inferences that the facts and the evidence do not support.

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1 And ladies and gentlemen, I can't blame you if that's
2 the way you go. We're all humans and we're all guided by our
3 emotions. But we're asking you to do something that is not
4 particularly easy to do. We're asking you to set those
5 emotions aside. I'm having a hard time doing that right now.
6 But that is your duty, to set those emotions aside, look at the
7 facts, and ask yourself: Can people that weren't even around
8 be blamed for the actions of another? And if they can, how
9 much further can we spread the blame? And will this type of
10 attitude and approach be limited to this case or will it set a
11 new precedent? Because I can't guarantee you that the next
12 time we have a hearing like this that it will be against Nazis
13 and white supremacists. It might be against people you agree
14 with. It might be against people you support.

15 THE COURT: I have to remind you this is not about
16 anything but have the plaintiffs or will the plaintiffs prove
17 the elements they must prove to recover against the defendants.
18 It's not for the greater good. The only good that can come out
19 of this case is justice. And justice will be that you decide
20 this case according to the law and based on the facts you hear
21 in the courtroom. You set aside your preconceived notions and
22 focus on those issues. Thank you.

23 MR. REBROOK: Judge Moon is absolutely correct and I
24 cannot ask anything more of you.

25 But -- but if you do choose the easier right, it will

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1 be difficult for me to say that it won't have consequences.

2 I'm not going to ask you to forget the disaster that
3 happened here or to feel empathy for some of the least
4 empathetic people I've ever met in my entire life. What I do
5 ask you to do is to set aside their ugly beliefs and not allow
6 attorneys from another state, from New York, to come down here
7 to Virginia and whittle away at the First Amendment for the
8 purposes of vengeance.

9 MS. KAPLAN: Your Honor, may I speak? We've really
10 hesitated to say anything during openings. You can see us
11 sitting here and really not trying to object. But you just
12 instructed Mr. ReBrook not to talk about things outside the
13 case, and Mr. ReBrook just said it was about lawyers from New
14 York who come down here to whittle away the First Amendment. I
15 think he just violated what you just told him he couldn't do.

16 MR. REBROOK: Forgive me, Your Honor.

17 THE COURT: Let me read it.

18 That's improper argument. This is -- go back to what
19 I just said. This is about the plaintiffs. It's not the
20 lawyers' case. It's not anyone's case but the individual
21 plaintiffs and the individual defendants and what is proven in
22 the case from the evidence here. The lawyers are not on trial.
23 Thank you.

24 MR. REBROOK: The evidence will show, ladies and
25 gentlemen, that this city was failed by those whose duty it was

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1 to protect and serve. If you choose -- if you choose to
2 believe the plaintiffs' evidence, you will be forcing white
3 nationalists more than to just their parents' basements.
4 You'll be forcing them underground.

5 And personally, I have to agree with Brad Pitt's
6 character from the film *Inglourious Basterds*, Lieutenant Aldo
7 Raines, when he said he likes his Nazis out in the open, he
8 likes them in uniform. That way you can identify them, just
9 like that.

10 That won't be the case if they're underground. You
11 must ask yourself where will they be more dangerous, in front
12 of you --

13 THE COURT: Mr. ReBrook, you're continuing to -- I
14 don't know why you don't understand what I instructed you.
15 This -- you can confine your remarks to the defense you're
16 going to present, and your defense may not be that something
17 will happen or some message will be sent that will be the wrong
18 message, or anything to do with outside of what the Court is
19 going to instruct the plaintiff -- the jury that the plaintiff
20 has to prove in order to recover a verdict. And to ask the
21 jury to consider other things, results other than what a proper
22 verdict ought to be, ramifications of the verdict, have nothing
23 to do with the jury's consideration. Nothing whatsoever. And
24 I hope the jury knows it.

25 This is a suit for money damages. And the plaintiffs

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1 have to prove they're entitled to it and they have to prove, if
2 they're entitled to money, how much. And that's it. That's
3 the only message you are to send here, is whether an individual
4 plaintiff is entitled to money and how much, and whether any
5 individual defendant is liable to the plaintiff for that amount
6 of money.

7 And so, I'm asking you to just put out of your mind
8 that this case is about some other principle or some other
9 problem. Obviously, the rule of law is important. If you
10 violate your duty, then you hurt the rule of law. But if you
11 do your duty, follow the Court's instructions and try this case
12 solely according to the law and the evidence you hear in this
13 case, that is the greatest thing you can do.

14 The principles of this government have been set for a
15 long time. And it's only when we adhere to those principles
16 that we help our system. And it does not help if we
17 individually try to come into court and throw some -- send some
18 message, because if we do that, then we're not doing what the
19 founders decided the courts were supposed to do. I mean, this
20 is a very important thing; that you decide the case solely
21 according to the law and to the evidence you hear in the
22 courtroom, not because you're trying -- you have some political
23 goal or some message you're trying to send somewhere.

24 So please proceed and adhere to my ruling.

25 MR. REBROOK: Yes, Your Honor. Apologies.

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1 I actually think Judge Moon put it best. To do your
2 duty is really all I can ask of you to do. I have nothing
3 further. Thank you.

4 THE COURT: All right. Who else? We have Mr. Smith.
5 Will there be anyone after Mr. Smith?

6 MR. SMITH: No, Your Honor.

7 THE COURT: How long will you be?

8 MR. SMITH: I don't know, but it might be a good idea
9 to take a break first.

10 THE COURT: I just wanted to know how long you were
11 going to be. If you're going to be five minutes, I don't need
12 to take a break.

13 MR. SMITH: I was thinking somewhere around 20
14 minutes, Your Honor.

15 THE COURT: All right. Why don't we take a stretch
16 break and take about 10, 15, no more than 15 minutes. When the
17 jury is ready to come back, we'll come back and we'll hear
18 Mr. Smith and then we will adjourn for the day.

19 Let me say this: I know how to keep time, if nothing
20 else. And don't ask for breaks unless it's absolutely
21 essential, because if we take a break -- if we go for an hour
22 and a half and take a 30-minute -- a 20-minute break and then
23 go another hour and a half for lunch and do the same in the
24 afternoon, we'll finish on time. If we take a break now, we're
25 taking 15 minutes, maybe, to save 30, you know? And it's

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1 just -- it's not cost-effective.

2 MR. SMITH: I'm sorry, Your Honor. I thought that's
3 what Your Honor was getting at.

4 THE COURT: I know, but we took one earlier. That's
5 what I mean.

6 MR. SMITH: I understand, Your Honor.

7 THE COURT: And I did not have it scheduled. I
8 thought it was some emergency.

9 MR. SMITH: No. No. No.

10 THE COURT: Okay. I'm sorry. Go ahead now.

11 **(Jury out, 4:08 p.m.)**

12 (Recess.)

13 THE COURT: Ms. Kaplan, unless you've got a witness
14 that's going to be real quick, I might adjourn after we hear
15 the opening statements.

16 MS. KAPLAN: I'm very glad to hear that, Your Honor,
17 because I told the witness she was excused for the day. The
18 witness who is up next is not a short witness so I told her
19 that she probably wasn't getting on.

20 THE COURT: I don't want to go past 5 o'clock.

21 MS. DUNN: Your Honor, we could start with this
22 witness today. We would not finish, but we could get her on
23 the stand and start with the examination if you would like.

24 THE COURT: Okay. All right.

25 MS. KAPLAN: Would you prefer that, Your Honor?

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1 THE COURT: Have her ready, but we'll see how long
2 Mr. Smith takes. Bring the jury back.

3 **(Jury in, 4:21 p.m.)**

4 THE COURT: Could we have the witness outside the
5 door?

6 All right. Mr. Smith, you may proceed.

7 MR. SMITH: Thank you, Your Honor. Ladies and
8 gentlemen of the jury, good afternoon. My name is Joshua
9 Smith. I represent David Matthew Parrott, who is seated over
10 here, Matthew Heimbach, and Traditionalist Worker Party, which
11 is the political party that they formed together.

12 There's a weird idea in this country about the First
13 Amendment, this idea that it's like a literal shouting contest,
14 like you have one side talking and the other side can try to
15 drown the other side out, or sort of force them to be quiet,
16 and that's how the First Amendment works. It isn't.

17 Let's say that I were to get a permit for some event
18 with the city. I apply for a permit. I get the permit. There
19 isn't some sort of right, First Amendment right to
20 counter-protest that permitted event by, say, standing outside
21 of it and throwing stuff in to disrupt it or, again, drowning
22 it out so that they can't -- so that no one can hear what's
23 being said in that permitted event.

24 In fact, when somebody gets a permit, it's really
25 fundamentally the job of the police to make sure that that

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1 permit is enforced and that the people that applied for the
2 permit aren't denied their First Amendment rights by those who
3 seek to disrupt whatever event they would like to hold and
4 they've been granted a permit for.

5 In this particular case, what we end up having is the
6 exact opposite of what the plaintiffs allege. The plaintiffs
7 allege that the defendants conspired to deprive the plaintiffs
8 of their civil rights under the law. And that's what gives
9 rise to a 1985 or 1986 action.

10 The thing is, what we know and what the evidence will
11 show is that when some of the attendees to this rally attempted
12 to get in -- and there were only two entrances to this park,
13 one on each side -- and everything else was blocked off so
14 there was no other way to get into the park where this
15 permitted rally was supposed to be held.

16 And in fact, by the way, it wasn't as if the city
17 didn't try to squelch this permit already. They did. They
18 said we're going to move this to another park. That was a
19 problem because, well, as we know, the rally was about a statue
20 that was in that particular park. So moving it to another park
21 really wasn't that good of an idea. It took a federal lawsuit
22 to get a federal judge to say, no, you have to honor this
23 permit, City of Charlottesville.

24 And you'd think that would be enough to get the
25 police to do what they needed to do to make sure that those

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1 rally-goers were able to exercise their First Amendment rights
2 safely.

3 Instead, we have a situation where, in addition to
4 the police sort of not doing a very good job that day, we have
5 at least one of the plaintiffs, Mr. Wispelwey, who wasn't, by
6 the way, involved in the James Fields car incident,
7 Mr. Wispelwey and his associates agreed that some of them in
8 his church, that some of them would go over to other permitted
9 events that were occurring that weekend.

10 There were permits taken out for a couple of other
11 events for a left-wing audience in various other parks around
12 Charlottesville. It seems like a nice city; they have several
13 parks, and, you know, you can -- there are various permitted
14 events you can have at any of them. So people had permits for
15 other events in other parks that day. And the thing is, they
16 were very far away from each other, which is really what you'd
17 want because, again, the First Amendment is not a shouting
18 contest. I can't just piggyback off of your permit by standing
19 outside and saying, "I have a permit to counter-protest your
20 event." You have to get your own permit. You can't assemble a
21 group of people together without a permit. So if you want to
22 get a permit to counter-protest some other permitted event, you
23 have to get your own permit.

24 THE COURT: Well, wait, Mr. Smith.

25 Counter-protesters did not have to have a permit to be there.

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1 There was no law -- I mean, what -- what --

2 MR. SMITH: Well --

3 THE COURT: No, I'm saying, Mr. Fields got a permit,
4 but other persons have a right to protest.

5 MR. SMITH: Oh, I understand, Your Honor.

6 THE COURT: And they don't have to have a permit to
7 protest.

8 MR. SMITH: Well, Your Honor, the problem here --

9 THE COURT: Okay. I've ruled that they didn't have
10 to have a permit to protest.

11 Proceed.

12 MR. SMITH: So even if you don't have to have a
13 permit to counter-protest --

14 THE COURT: Just -- it's over.

15 MR. SMITH: I understand.

16 THE COURT: I've ruled. Go on to another matter.

17 MR. SMITH: Okay.

18 Mr. Wispelwey has admitted to blocking the entrance
19 to the park with some of his associates that chose not to go to
20 those other events at other parks, but rather to block the
21 entrance to the permitted event, thereby -- and, again, he
22 agreed with his associates to do this. So that seems like an
23 agreement or a conspiracy to deprive the rally-goers, some of
24 whom are defendants here, of their civil or First Amendment
25 rights.

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1 That's exactly what the plaintiffs are accusing the
2 defendants of doing. That's weird. Talk about unclean hands.

3 But more to the point, I represent three of the
4 defendants in this case. I don't represent them all.

5 Obviously, James Fields has an attorney, and he's said what he
6 has said about that situation. We're not here to defend James
7 Fields. I'm here to defend David Matthew Parrott, Matthew
8 Heimbach, and Traditionalist Worker Party. And the thing is,
9 as much as plaintiffs would like to claim that the evidence
10 shows some sort of conspiracy on their part or having
11 involvement on their part with Unite the Right, the reality is
12 that Mr. Kessler asked them to attend the event. And they did.

13 They brought their political party, which is an
14 FEC-registered political party, or was at the time. I don't
15 believe it's in existence still, but at the time it was an
16 FEC-registered political party, and they had 75, 100 members in
17 various states. And -- sorry, my voice is just -- sorry about
18 that.

19 Thank you so much. Sorry about that. Starting to
20 get a little raspy there.

21 So just to fast-forward to the point here, Trad
22 Worker and Mr. Parrott and Mr. Heimbach are accused of
23 participating in this conspiracy. Well, there's this torch
24 march, right? We're told about this torch march.

25 The thing about it is, they didn't know about this

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1 torch march. They were never told. They found out a couple of
2 hours before it was supposed to happen. And when they did --
3 and by the way, that torch march was not a permitted event.
4 There was no permit obtained for that, unlike the Saturday,
5 August 12th event, okay? And when Mr. Parrott, who runs TWP,
6 along with Mr. Heimbach, when they heard about this, they said,
7 "Absolutely not. We are not going to this. We did not agree
8 to this. Trad Worker is not to go to this, and none of its
9 members are to attend this or have any part of it in any way."

10 The reason he did that is because, from the very
11 start, Mr. Parrott was extremely concerned about not just
12 everyone's safety, because Trad Worker and its members have
13 been attacked at other events that they've held, successfully,
14 but they've been attacked at these events numerous times, and
15 their state of mind was such that they knew that if they're
16 going to have any event whatsoever, they need to come prepared,
17 and that means defensive items like shields, helmets. These
18 are important because, well, the political opposition is known
19 for throwing things that could hurt somebody if they got hit in
20 the head with it, all of these political tactics that you see
21 on the -- you know, on the news. People talk about them.
22 It's -- you've probably seen this a lot. You have to be
23 careful of these things these days.

24 I think Mr. Spencer may have had a point when he said
25 we are entering sort of an era of political violence and that

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1 it's somehow now become acceptable. We've gone from this idea
2 that, even if you don't like someone's message, you still need
3 to let them speak, because that's the kind of civil society we
4 have -- we've gone from that to, use violence to shut down the
5 speech you don't like. And that's extremely -- an extremely
6 bad place for any republic like ours to be.

7 Now, Mr. Parrott, again, very concerned about
8 everybody's safety, but also very concerned about making this a
9 peaceful event. So he sent out a series of emails to the
10 members of Trad Worker, and this was the only -- really the
11 only messages that the members were receiving. This was their
12 source of information from Trad Worker about how this rally was
13 supposed to go or -- well, again, they were attending it, but
14 how they were supposed to attend it, the conduct that was
15 expected of them, okay?

16 And of course -- I believe for this rally there were
17 speakers planned. There would probably be some socializing.
18 And then the plan is, of course, after all the speakers are
19 there and they speak and you have some socializing, everybody
20 just goes home. That's the idea. It's a political rally.
21 Everyone knows what that is.

22 Mr. Parrott made it very clear to his members that
23 they weren't to have any part of any kind of violent behavior.
24 And, again, this set of emails that he sent out really just
25 goes to show that quite a bit.

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1 For example, let's look at this one. It was sent out
2 on -- his first email was sent out on August 3rd, 2017, which
3 was about nine days before the rally.

4 Now, I should point out, you won't be able to see
5 this very well. I just want you to see that there is, in fact,
6 an email.

7 MS. KAPLAN: Your Honor, if this was produced in
8 discovery or if it's an exhibit, we'd like to be able to look
9 at it. We can't see what's on our screen.

10 MR. SMITH: I thought you already had it. It's hard
11 to see on the screen because it just seems to be coming up
12 blurry. Would you like to --

13 MS. DUNN: Is there an exhibit number?

14 MS. KAPLAN: Don't you have an exhibit number?

15 MR. SMITH: I don't know which exhibit it is of
16 yours.

17 MS. KAPLAN: Oh, it's one of our exhibits?

18 MR. SMITH: It may be one of your exhibits, but I'm
19 not sure which order it was produced to you guys. I know it
20 was produced, but --

21 THE COURT: What is it? Is that a message or
22 something?

23 MR. SMITH: Yes, it's -- it's an email; series of
24 emails from Mr. Parrott to --

25 THE COURT: Whoa, whoa, whoa.

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1 MS. KAPLAN: Your Honor, maybe we should come to side
2 bar. Would that make sense?

3 MR. SMITH: Apologies, ladies and gentlemen. One
4 moment.

5 (Side bar.)

6 MS. KAPLAN: Your Honor, we cooperated with defense.
7 We gave them examples of our exhibits. You know, we gave them
8 notice. We didn't get any notice from him.

9 I have no problem showing him a document, if it's a
10 document that's been produced in the case, but we can't see on
11 the screen. I have no idea what it is. I don't know if he
12 produced it. I don't know if it's on our exhibit list.

13 THE COURT: What is it?

14 MR. SMITH: Your Honor, the first thing is that my
15 client informed me that this was produced in discovery. I
16 don't know exactly when it was produced because, as Your Honor
17 is aware, I'm on the case rather recently.

18 THE COURT: What is it? You can't even see what
19 it is.

20 MR. SMITH: It's just a series of emails in which
21 Mr. Parrott tells his members, "Here's what's expected of you
22 at the event, and we want this to be a safe event, and we want
23 this to be a peaceful event," which is central to their case,
24 Your Honor.

25 THE COURT: Well, I know that. But, I mean, has it

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1 not been produced or what?

2 MS. KAPLAN: I can't read it.

3 THE COURT: Well, okay, but he proffers -- he's
4 proffered what it is.

5 MS. KAPLAN: I think Mr. Bloch has more.

6 MR. BLOCH: So it's been produced, but I don't
7 believe it's on our exhibit list. I have to check that. And
8 they don't have an exhibit list.

9 MR. SMITH: But it has been produced, right?

10 MR. BLOCH: It has been.

11 MR. SMITH: And we did say it was going to be used in
12 the integrated pretrial order. We did make reference to that.

13 MR. BLOCH: I don't know about that, but I know they
14 have new exhibit lists.

15 THE COURT: I'm going to let him --

16 MS. KAPLAN: Do you have a copy of it that we can
17 read it while you're talking about it?

18 MR. SMITH: Yeah, I can -- well --

19 MS. KAPLAN: Not with you? Okay.

20 Go ahead. Sorry, Your Honor.

21 MR. SMITH: You'll get it in evidence later. The
22 whole thing will be there. For now, we'll just read it.

23 (Side bar concluded.)

24 MR. SMITH: Okay. Sorry about that.

25 Like I was saying, Mr. Parrott was very concerned

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1 about safety for this event. And so you see, for example --
2 sorry.

3 So you see, for example, in this first email he
4 says -- and again, if you can't see this, we'll be introducing
5 it later; I just wanted to sort of indicate that this is the
6 part that says it, and I'll read it to you. "This is a
7 peaceful event, and we ask that you think it through before you
8 carry your arms" -- because Virginia is an open-carry state --
9 "into the event grounds. We are trying to not only be
10 peaceful, but to give that impression to all gathered. There
11 will not be chanting of any sort or exchanges of vulgarities
12 with Bolsheviks or neoliberals. We will not devolve the rally
13 into a shouting match."

14 This isn't the kind of thing that a conspiracy to
15 commit racially motivated violence looks like.

16 Let's look at the next email, which was sent
17 four days later, on August 7th, to TWP members. There, we see
18 this: "As a reminder to all attendees, if the enemy comes to
19 oppose us, we must under all circumstances follow the law and
20 work to deescalate conflict. Do not bring any weapons, tools,
21 or implements that are illegal. Comrades who have concealed
22 carry permits that are valid in Virginia are allowed to carry.
23 If we are attacked, we will follow the laws and defend
24 ourselves and our comrades, but under no circumstances will we
25 aim to provoke or incite conflict. This means that we will not

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1 be screaming at, cursing, insulting, or name-calling Antifa
2 while at the event."

3 That sounds pretty restrained to me: "If we are
4 attacked, we will follow the laws."

5 They weren't there to commit crimes. They worked
6 with the police to ensure their security at the event. Unless
7 what the plaintiffs are saying is that the police also
8 conspired with the defendants, then I don't see how you really
9 can prove that somebody wanted to commit racially motivated
10 violence if they're working with the police to make sure their
11 legally permitted rally and court-ordered rally goes according
12 to plan.

13 Now, my clients worked with the police specifically
14 to make sure that their group was able to arrive and leave
15 safely. Of course, that's not what happened, ultimately.

16 In the next email we see this: "Our intel suggests
17 at this moment that our numbers will be strong enough and law
18 enforcement will be numerous enough that the event will only
19 have some isolated scuffles, if anything. Be safe. Use the
20 buddy system, and watch your back before and after the event,
21 as that's where our intel is suggesting the most safety risk
22 right now. We're necessarily preparing for the worst, but
23 don't be alarmed by all the tactical planning."

24 Again, Trad Worker and its members have been attacked
25 before, viciously, at several of their previous rallies. And I

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1 should mention that, other than that, all of the rallies went
2 without incident.

3 Finally, we have this email, which was on
4 August 11th. This is the fifth email that was sent to the
5 members. It says: "We've received numerous reports, many
6 confirmed, of violence breaking out already today. It's vital
7 that you avoid any confrontation before the event, both for
8 your personal safety and because we need you with us at the
9 rally."

10 Trad Worker was interested in putting on a successful
11 rally, which was about a cause that they believed in, the
12 statue in the park and what that represents. They weren't
13 looking to turn this into anything other than a political
14 rally.

15 This isn't the language of racially motivated
16 extremism.

17 Conspiracy theories can be a lot of fun. Did we ever
18 really land on the moon? We can talk about this stuff all day,
19 right? It's fun to think about. But in this case, the
20 plaintiffs' conspiracy theory doesn't come close to being an
21 actually legally actionable conspiracy.

22 The situation with James Fields is, of course, very
23 unfortunate. It would be ridiculous for us to stand up here
24 and say that people that were, on video, hit by a car don't
25 have serious injuries. I mean, cars do serious damage. So

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1 that makes sense. We're not here to dispute the nature or
2 extent of those injuries. But that is only because my clients,
3 Matthew, David Matthew, and Trad Worker, didn't have anything
4 to do with anything related to James Fields.

5 It turns out that James Fields not only didn't know
6 any of the defendants in this case -- no idea; he might have
7 heard of somebody on television, maybe, but there is no
8 evidence that he knew or communicated with any of these
9 defendants, ever. And I know that my clients, and, I can
10 probably say, none of these defendants, even knew who he was.
11 Nobody knew who he was.

12 You know, if you're one of those people that goes for
13 government conspiracies -- and I don't, personally -- it is
14 kind of weird that -- here's this guy nobody has ever seen
15 before. Nobody knows who he is. He comes to this rally for
16 the first time. He decides he's going to go to a rally and
17 stand up for his political beliefs. He wears a uniform of an
18 organization that put out publicly, here's what our uniform is,
19 and he wore this uniform there, but my understanding is that
20 the organization didn't know who he was. And this happens, the
21 situation with the car. This happens.

22 Of course, from that, the alt-right and the far right
23 in general is defamed because of this. They're connected with
24 this in some way. Well, the thing is, there is no evidence
25 that connects James Fields to any of these people. It's kind

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1 of weird.

2 You know, we see there's movies like The Omen or --
3 Final Destination, I think, is another one. It's almost like a
4 movie trope. You have these movies where there's all these --
5 there's a weird sequence of events, and it ends in something
6 where somebody ends up dying. This is a movie plot that --
7 there's several of them out there. And it's just supposed to
8 be: How -- what are the odds of that happening? How do these
9 circumstances come together to create this bizarre situation?
10 Well, here, what we have is one of those kinds of situations.
11 The legally permitted rally-goers are not able to access the
12 park, and fighting breaks out.

13 The police -- and it turns out this was really the
14 objective of the police all along, was to let the parties fight
15 so that they can step in, declare an unlawful assembly, and
16 shut the whole thing down. They knew that these groups don't
17 like each other, and they just wanted to let them go at it so
18 that they could declare an unlawful assembly and shut it down.

19 And what happened was when they -- when that
20 happened -- because, I mean, you don't have to be a rocket
21 scientist to figure out how that's going to go if you put those
22 groups close to each other. And this is why it's such a
23 failure of local and city government here, because why didn't
24 you just keep the groups separate? Why would you let them come
25 anywhere near each other?

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1 You have this group that's permitted to go to this
2 rally. Why let anybody else near that, if you had any
3 suspicion that their intentions were impure? Okay? Let the
4 people have their rally and let other people have their events,
5 and we can avoid this kind of violence. But the police didn't
6 do that.

7 And then when they were clearing the park, they
8 pushed the legally permitted rally-goers directly into their
9 political enemies, who were sitting right outside the park,
10 waiting for them. The police pushed them right into their
11 political enemies.

12 And, of course, violence breaks out. Well, that's
13 certainly predictable. But what isn't predictable is that,
14 once the unlawful assembly is declared, they're pushed into the
15 other people and there's more violence, and all chaos is
16 breaking loose, and then the James Fields situation. And in
17 all that chaos and everybody sort of, you know -- all the
18 disorganization, we end up with a situation where James Fields
19 ends up running into some people, killing one.

20 It's just bizarre how that happens because, if even
21 one tiny thing was different, even something like if the police
22 had declared an unlawful assembly a few minutes later, none of
23 this would have happened. His car wouldn't have been in that
24 place at that time. They -- the people that were on that
25 street that the car collided with, they wouldn't have been

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1 there. Nothing like this would have happened.

2 It takes a lot of moving parts to end up with
3 something like this. And there isn't just one group of people
4 to blame here. We'll talk more about it throughout this trial.
5 We'll talk more about who those groups are, but there isn't
6 just one group to blame.

7 But remember that fundamentally, the defendants, the
8 rally-goers, they had the permit. That was supposed to be
9 honored.

10 I'm reminded of some images -- when I was a child, I
11 remember seeing these. They're from, like, the 1950s, I think.
12 It's images after the *Brown v. Board of Education* decision of
13 the Supreme Court. There was, of course, a lot of social
14 unrest about integrating the schools. And the Supreme Court,
15 you know, required the schools to be integrated. Some places
16 in the south were not abiding that. And so there are images of
17 soldiers, military soldiers, United States, holding young -- or
18 perhaps I would say teenagers, high school students, at
19 gunpoint to march them off to school.

20 MS. KAPLAN: Your Honor, I'm really -- it's late in
21 the day, so I apologize. I'm really trying, but I don't
22 understand how anything about the implementation of the
23 *Brown v. Board* decision and police officers holding guns with
24 children has anything to do with this case, or --

25 MR. SMITH: It's the --

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1 MS. KAPLAN: Please. Please.

2 (Overlapping speakers.)

3 MS. KAPLAN: -- or is consistent with --

4 THE COURT: Wait. Wait. Lawyers don't talk to each
5 other in court.

6 MR. SMITH: I understand. I'm sorry.

7 THE COURT: You talk to me and so forth.

8 MR. SMITH: I was going to say, the point is to show
9 that our law enforcement knows how to enforce court orders,
10 Your Honor.

11 THE COURT: Okay. But you're talking about something
12 in Arkansas somewhere. Talk about this case.

13 MR. SMITH: Okay.

14 THE COURT: Talk about this case and the issues in
15 this case.

16 MR. SMITH: Of course, Your Honor. Yes.

17 THE COURT: All right.

18 MR. SMITH: I'm almost done. And by the way, I'll be
19 going last throughout the trial. So, you know, when you see
20 me, you know that you're almost on the -- just one more to sit
21 through. Sorry about that.

22 As Mr. Spencer said, it's really time to revisit this
23 whole Charlottesville matter. It's been four years. Tempers
24 have cooled. It's time to look at this with a clear head,
25 because I know that, since the event happened, I can't get

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1 beyond some very fundamental premises.

2 For example, the defendants in this case were the
3 ones that had the permit. Why weren't their First Amendment
4 rights protected? It wouldn't have been that hard to do. It
5 would have just taken some people that wanted to make sure that
6 their rights were protected. That's fundamentally the job of
7 the police and of government. And they failed here.

8 Now, again, this isn't about -- this isn't about
9 politics, you know, sort of in general, or any political issue.
10 This isn't about Trump or Biden or anything like that. It's
11 not like that. This is fundamentally about one of the most
12 important things that makes our republic a civil republic:
13 Freedom of speech and the protection of that right. Because if
14 you don't protect it, it's absolutely worthless. It's not
15 worth the paper it's written on.

16 With a lot of these other defendants, you're going to
17 hear they weren't really connected to some of these things,
18 like my clients weren't connected to the torch march in any
19 way, like you saw in those emails. When he heard about the
20 torch march, Mr. Parrott said, "Nobody is going, absolutely
21 not," and they did not go. Now, if that doesn't show that
22 David Matthew, Matthew, and Trad Worker weren't extremely
23 intent of making sure they followed the law and the rules, I
24 don't know what would.

25 And finally, when the police did declare unlawful

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1 assembly and sent everybody home, the thing is that David
2 Matthew, Matthew, and Trad Worker, all the members, they just
3 went home. They did what they were told. They were nowhere
4 near the area of any of the events. They were already on their
5 way home when the James Fields incident happened. That is
6 important to keep in mind. Again, it's a weird set of
7 circumstances that ends up with somebody being hit by James
8 Fields's car, but that doesn't make those defendants, at least
9 many of them, responsible for that.

10 You're going to be tasked with one of the toughest
11 tests that you've ever had to go through here. It's very hard
12 to look at a case like this and not feel emotional about what
13 happened to the plaintiffs. Some of the injuries are really
14 bad. It's very easy to do that. Anyone can do that. Anyone
15 can be emotional about that. But the issue here is whether
16 those defendants are responsible for those injuries. And
17 there's no connection between those plaintiffs and these
18 defendants. Neither of them have any idea who the other is.

19 The evidence will show that some of these plaintiffs
20 never even heard of my clients. Not even that they knew them
21 and they didn't like them; they never even heard of them. They
22 didn't even know they existed.

23 Something bizarre is happening when people that have
24 no idea who each other are somehow find themselves on opposite
25 sides of a lawsuit.

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1 Perhaps this is an issue that is best sorted out in
2 the political arena, and not one in which we use the courts to
3 settle political disputes. And in this case, I think what we
4 may have is that at these kinds of rallies, there's always this
5 fighting between these two groups, and one group decided,
6 "We're just going to use the courts to crush the other group
7 because we know that we can't actually take away their First
8 Amendment rights."

9 THE COURT: Well, Mr. Smith, I just don't know where
10 you were when we have had the arguments this afternoon.

11 MR. SMITH: I'm sorry, Your Honor.

12 THE COURT: This is the same issue I've interrupted
13 umpteen people over.

14 MR. SMITH: I'm sorry. I got you. I'm done. I'm
15 all done.

16 THE COURT: Okay. Well. Just don't do that.

17 MR. SMITH: I'm sorry.

18 THE COURT: You're through, you're saying?

19 MR. SMITH: Yeah.

20 THE COURT: Okay.

21 MR. SMITH: I look forward to proving everything I've
22 said to you here today in the coming weeks. Thank you.

23 THE COURT: All right. Ladies and gentlemen of the
24 jury, it's now five minutes to 5, and we're going to stop.

25 I think we've said enough, many times today, this is

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1 a case in which individual plaintiffs have to prove that they
2 are entitled to damages from are individual defendants. You
3 try this case each person involved. We're talking about a
4 conspiracy.

5 You're going to be given full instructions at the end
6 of the evidence, but basically, every party in the case, you
7 look at their responsibility and their liability separately.
8 And I think we made that clear.

9 But overnight, do not discuss the case with anyone.
10 Do not remain within hearing of anyone discussing the case. Do
11 not read anything about it in the newspapers or any other
12 media. Do not watch television or if it's -- I know -- if it
13 comes on, go away, cut it off. Just please do not try to
14 acquire any information about the case except what you hear in
15 the courtroom for the next four weeks.

16 So you are excused at this time to follow the
17 directions you've been previously given concerning when to
18 appear tomorrow.

19 **(Jury out, 4:54 p.m.)**

20 THE COURT: I don't know what sort of exit plan is
21 outside the door. Just need to give the jury time to get off
22 the third floor.

23 MS. DUNN: Your Honor, we wanted to flag one issue
24 and just to let the Court know we'll be submitting a letter
25 overnight. Today in the openings we did work very hard to not

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1 interject during the openings and extend the same courtesy that
2 we were extended in our opening, but there were numerous
3 misrepresentations about the law, both of conspiracy and the
4 First Amendment. There was one violation of one of Your
5 Honor's motions in limine.

6 So what we'd like to do is look at the transcript to
7 figure out exactly what was said and we'll submit a letter with
8 an appropriate request for the Court to consider overnight.

9 MR. SMITH: Your Honor, if I could be heard very
10 quickly. We'll also be submitting a letter. During the
11 plaintiffs' opening I did hear the phrase "white supremacist"
12 used once, which Your Honor had commented he was not interested
13 in hearing. It's inflammatory and it was used. We didn't
14 interject at the time but we'll be submitting a letter to note
15 that for the record.

16 MS. DUNN: Your Honor, just to respond to that, we
17 were very careful about this. We did use the word "white
18 supremacist" to describe the expertise of Professor Peter Simi,
19 who is in fact an expert in that.

20 MR. SMITH: That wasn't it, Karen.

21 THE COURT: Okay. You write your letter and you
22 respond to his letter.

23 MS. DUNN: Thank you, Your Honor.

24 MR. SMITH: Thank you, Your Honor.

25 (Proceedings concluded, 4:56 p.m.)

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C E R T I F I C A T E

I, Lisa M. Blair, RMR/CRR, Official Court Reporter for the United States District Court for the Western District of Virginia, appointed pursuant to the provisions of Title 28, United States Code, Section 753, do hereby certify that the foregoing is a correct transcript of the proceedings reported by me using the stenotype reporting method in conjunction with computer-aided transcription, and that same is a true and correct transcript to the best of my ability and understanding.

I further certify that the transcript fees and format comply with those prescribed by the Court and the Judicial Conference of the United States.

/s/ Lisa M. Blair

Date: October 28, 2021